1203. By Mr. LEAVITT: Petition of the Missoula Chamber of Commerce, of Missoula, Mont., that the transportation act of 1920 be continued until it has had a fair test under normal conditions and that no legislation amending the act be passed by the present Congress; to the Committee on Interstate and Foreign Commerce.

1204. Also, petition of a mass meeting of the citizens of Polson, Mont., favoring adjusted compensation for ex-service men, submitted by a resolutions committee composed of Mr. Benjamin C. Emory, Mr. Frank H. Nash, and Mr. John T. Foley; to the Committee on Ways and Means.

1205. Also, petition of Wheatland Post, No. 15, American Legion, of Harlowton, Mont., favoring passage of an adjusted compensation measure by the present Congress; to the Committee on Ways and Means.

1206. By Mr. MORROW: Petition of New Mexico Wool Growers' Association, opposing any extension of the Navajo Indian Reservation; to the Committee on Indian Affairs.

1207. Also, petition of the Grant County Chamber of Commerce, by Roland A. Laird, executive secretary, opposing any amendment to the transportation act; to the Committee on Interstate and Foreign Commerce.

1208. Also, petition of the Rotary Club of Raton, N. Mex., by E. L. Goff, secretary, opposing any modifications of the transportation act; to the Committee on Interstate and Foreign Commerce.

1209. Also, petition of Chaves County Medical Society, Roswell, N. Mex., opposing excessive war taxes under the Harrison Antinarcotic Act; to the Committee on Ways and Means.

1210. Also. petition of Associations of Shop Crafts, Atchison, Topeka & Santa Fe Railway system, Gallup, N. Mex.; supervisors, Atchison, Topeka & Santa Fe Railway system, Raton, N. Mex.; Atchison, Topeka & Santa Fe employees, Clovis, N. Mex.; Atchison, Topeka & Santa Fe employees, Belen, N. Mex.; Atchison, Topeka & Santa Fe Railway associations, Albuquerque, N. Mex.; and Atchison, Topeka & Santa Fe Railway system associations, Deming, N. Mex., opposing any changes in the transportation act; to the Committee on Interstate and Foreign Commerce.

1211. By Mr. O'CONNELL of New York: Petition of the New York State Teachers' Association for Social Studies, favoring an appropriation to restore the castle at Fort Niagara to a condition befitting its historical significance; to the Committee on Appropriations.

1212. Also, petition of the American Legion, Department of New York, favoring resolution that shall make the Star-Spangled Banner the official national anthem of the United States of America; to the Committee on the Library.

1213. By Mr. O'CONNELL of Rhode Island: Petition of members of the Providence Chapter of Hadassah, the women's Zionist organization, opposing the Johnson immigration bill; to the Committee on Immigration and Naturalization.

1214. By Mr. OLDFIELD: Petition of Garner Post, No. 91, of the American Legion, Department of Arkansas, Beebe, Ark., favoring enactment of adjusted compensation bill; to the Committee on Ways and Means.

1215. By Mr. ROGERS of New Hampshire: Petition of American Citizens Club of Polish Descent of Newmarket, N. H., opposing the Johnson immigration bill; to the Committee on Immigration and Naturalization.

1216. By Mr. SEGER: Petition of 78 employees of the Passaic (N. J.) post office in favor of House bill 4123, providing for an increase for postal employees; to the Committee on the Post Office and Post Roads.

SENATE.

WEDNESDAY, *February 20, 1924.*

(Legislative day of Saturday, February 16, 1924.)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Adams	Broussard	Couzens	Edwards
Ashurst	Bursum	Cummins	Ernst
Bayard	Cameron	Curtis	Ferris
Borah	Capper	Dial	Fess
Brandegee	Caraway	Dill	Fletcher
Brookhart	Copeland	Edge	Frazier
George	King	Oddie	Spencer
Gerry	Ladd	Overman	Stanley
Glass	La Follette	Owen	Stephens
Gooding	Lenroot	Pepper	Swanson
Hale	Lodge	Phipps	Trammell
Harreld	McKellar	Pittman	Wadsworth
Harris	McKinley	Ransdell	Walsh, Mass.
Harrison	McLean	Reed, Pa.	Warren
Heflin	McNary	Robinson	Watson
Howell	Mayfield	Sheppard	Weller
Johnson, Minn.	Moses	Shipstead	Wheeler
Jones, N. Mex.	Neely	Simmons	Willis
Jones, Wash.	Norbeck	Smith	
Kendrick	Norris	Smoot	

The PRESIDENT pro tempore. Seventy-eight Senators have answered to their names. There is a quorum present.

LITERARY DIGEST POLL ON MELLON TAX PLAN.

Mr. HARRISON. Mr. President, I shall not detain the Senate long. There is a matter that has been adverted to in the last two or three days, namely, the Mellon plan poll that is being taken by the Literary Digest. The senior Senator from Georgia [Mr. HARRIS] called it to the attention of the committee which is now investigating propaganda and requested the committee to take up and investigate the question.

I am sure that the country appreciates the high service that has been rendered by the Literary Digest through the long years of its publication. It is a splendid periodical, and so far as I know it has generally been accurate in its statements and fair in its conclusions. The exception is shown in the matter of the poll that is now being taken throughout the country with reference to the Mellon tax proposal.

Mr. President, whenever any organization starts out at a cost of approximately $400,000 to obtain a poll which is in the form of propaganda we must look upon it with suspicion. Here is the Literary Digest filling two or three of its pages every week with reference to the poll and telling the people that "it is impartial," and yet on the next page giving the reasons why this or that particular plan should be adopted. In order to get it to the country and to obtain the votes upon which it bases its compilation it sends out two postal cards, one of which is to enable one to subscribe for the Literary Digest, which card naturally costs a good deal. The other card has a 1-cent stamp affixed. It is claimed that there are 15,000,000 of these letters circulated, 15,000,000 postal cards with 15,000,000 1-cent stamps attached on 15,000,000 more postal cards asking the people of America to write to the Literary Digest and express their preference with reference to the Mellon plan.

In the literature which accompanies this particular postal card, which, it is said, is impartial, are some statements that I am going to read to the Senate, some utterances which show that it is not impartial. Before I do that I shall first read from the Literary Digest of February 2 of this year:

> First returns in the Digest's 15,000,000 poll.

It is easy to calculate that it has cost somewhere around $400,000 as a minimum to distribute these postal cards, to get this data to the country, and to take the poll, together with the expensive advertisements carried, such as this one, in numerous daily papers throughout the country. The article begins:

> What does America think of the Mellon plan? * * * A number of factors have forced the Mellon plan for tax reduction into special prominence, and it must be disposed of first. What is the national will with regard to this plan?

It points its finger at the Mellon plan. Further on it says:

> In presenting these returns the Digest wishes to emphasize that unusual precautions have been taken to make this poll truly representative. No propaganda accompanies the ballot and no attempt is made to influence the opinion of the voter.
>
> The reproduction of the ballot, centered in this page, tells a small part of the story of the safeguards with which the voting is surrounded. Each post-card ballot is sent by mail in a separate envelope, personally addressed in writing to the person for whom it is intended.
>
> On the "address" side the ballot carries a 1-cent stamp. The card itself is ingeniously prepared to prevent counterfeiting, and any attempt at plural voting is likely to involve the serious offense of tampering with the United States mails.
>
> The value of the vote—

Says the Literary Digest—

as a true criterion—

"As a true criterion," I call to the attention of the distinguished Senator from North Carolina [Mr. SIMMONS]—

> of public opinion is indicated by a comparison between the total electorate of the United States and the number of ballots sent out during the poll.

It speaks further of the absolute impartiality of it, and says that—

The Digest will serve merely as an unbiased registrar and disseminator of opinions and facts. The temper of the country as revealed by the poll will undoubtedly prove illuminating to Congress, and thus play a part in the fate of tax reduction as it may be enacted into law.

That clause tells the story. Its sole purpose is to influence Congress, to bring to the attention of the Congress what the American people are thinking of. Now, if its purpose is that, it certainly should be a fair poll that is taken.

The Mellon plan seems to have a decisive edge—

It says, and further on it refers to the "Coolidge-Mellon" plan. It also says:

Mr. Mellon has flatly stated that the bonus can not be paid if his tax-reduction plan is carried through, and his long controversy with the American Legion is known to all readers of the newspapers.

Of course, its object is that all who oppose the bonus will write in a vote for the Mellon plan, thus aggregating the total number of votes so that greater influence can be brought upon Congress.

Now, I want to read from some of the data that go with the postal cards. On the reverse it is set forth how the Mellon plan would reduce individual income taxes, but nothing is said of any other plan that has been proposed. The Mellon plan is put up to the country, and those who receive the ballots are only permitted to vote for or against that one plan. In order to bring to the attention of the individual voter the merits of the Mellon plan, it shows the reductions down the line on net incomes from $1,000 to $100,000, but it stops there; it does not go beyond the $100,000 net income. In these data it is stated:

Many plans have been proposed by various political groups or leaders, but attention has become focused almost entirely upon one plan—the Mellon plan.

Certainly the Literary Digest in the coming week will not tabulate the votes and give them to the country without some expression upon its part to the effect that the House of Representatives yesterday, voting on the Mellon plan, defeated it by a vote of 222 to 196. The Literary Digest must have known, because the Congress knew and the people generally knew, that the Democrats in the House of Representatives had proposed a plan which was known as the Garner plan. It differed from the Mellon plan in many particulars. It gave a greater reduction in taxes for at least 6,650,000 income-tax payers out of the 6,662,000 taxpayers than did the Mellon plan. So the country was cognizant of the fact, yet the individual voter, whose vote the Literary Digest seeks, is hoodwinked; he is deceived into believing that there is only one plan, namely, the Mellon plan, and that the vote would come on that proposition only.

Mr. President, if the Literary Digest in its literature and upon this ballot had given the same prominence to the Garner plan and had stated its good features as was done respecting the Mellon plan, the poll would have been quite different from the one which is revealed in the Literary Digest; but they did not hint at the Garner plan; they made no mention of the Garner plan; and yet, as I have stated, in the House of Representatives yesterday a sufficient number of patriotic, progressive, and right-thinking Republicans came over and aligned themselves with the solid Democratic membership of the House to carry the Garner plan, thereby defeating the Mellon plan on a straight vote, on a sharp issue, by 222 to 196 votes—thereby adopting the Garner plan by a similar vote.

Further on in these data it is stated, in speaking of the Mellon plan in the effort to convince the country that the Mellon plan is the only plan to reduce taxes:

It provides that an earned income (salary, wages, professional services, etc.) shall not be taxed as highly as an income from stocks, bonds, etc.

The Literary Digest fails to state in this literature that there was omitted from the Mellon plan the proposition of giving to the small traders and the farmers of the country any reduction on earned incomes, but that it applies on other incomes. The Literary Digest also omits in this literature to tell the voter who seeks to cast his ballot that the Democratic plan, the Garner plan, gives a greater reduction on earned incomes than does the Mellon plan; that the exemptions are increased in the Garner plan over the Mellon plan; and that the surtaxes begin on higher amounts in the Garner plan than in the Mellon plan.

The Literary Digest in its literature goes on further to state:

On the back of this letter you will find a table showing the saving to the taxpayer under the Mellon plan.

But it says nothing of the Garner plan.

President Coolidge also disapproved of a bonus in fact and principle and has given unqualified support to the Mellon plan.

Every argument that might be employed in order to gain votes for the Mellon plan, for the purpose of bringing it to the attention of Congress and influencing the Congress for the Mellon plan, is incorporated in this unfair literature which has been issued by this highly reputable periodical, the Literary Digest. Indeed, from reading the ballots and the data attached thereto one would think that in order to obtain a reduction of taxes his only course was to vote for the Mellon plan. The voter was led to believe by the ballot and the data that a "no" vote was against a tax reduction. How unfair, deceptive, and misleading is the propaganda! Further on in this literature we read:

All Members of House and Senate are naturally anxious to know the wishes of the people with regard to this very important matter. If you want the question decided in the way that you believe is right, send in your vote at once.

And yet if the people think the Garner plan is the right plan—and evidently the country thinks it is the right plan—they are given no opportunity to vote for it in the Digest's poll. Further on the Literary Digest says:

You need to know the facts and arguments as they are fairly and fully presented and weighed on all sides, not as they come hot twisted by prejudice or incomplete information from some eager partisan.

It seems that the Literary Digest is twisting the information and playing, as I believe for the first time in its history, the partisan in this particular matter.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Mississippi yield to the Senator from North Carolina?

Mr. HARRISON. I yield to the Senator.

Mr. SIMMONS. I understood the Senator from Mississippi to say that the circular which he has just read gave the reduction on incomes below $100,000 under the Mellon plan?

Mr. HARRISON. Yes.

Mr. SIMMONS. I understood the Senator to say that he thought the appeal was to those who wished taxes reduced?

Mr. HARRISON. Yes.

Mr. SIMMONS. If the Literary Digest had given the reductions made by the Garner plan on incomes below $92,000, would it not have shown that the Garner plan allows a larger and greater reduction upon incomes up to that point than the Mellon plan?

Mr. HARRISON. The Garner plan would give a much greater reduction than the Mellon plan, and yet they keep that from the people.

Mr. SIMMONS. The Senator also said, as I understood him, that the circular giving the reduction on incomes up to $100,000 stopped at that limit, and did not give the reduction that would accrue upon incomes in excess of $100,000.

Mr. HARRISON. The Senator is right.

Mr. SIMMONS. I should like to ask the Senator if the Literary Digest had followed that up and given the reductions proposed in the Mellon plan on incomes over $100,000 in parallel columns with the reductions proposed by the Garner plan on incomes over $100,000, would it not have shown that, while the Garner plan makes larger reductions on the small incomes than the Mellon plan, the Mellon plan makes greater reductions on the great incomes than the Garner plan?

Mr. HARRISON. Absolutely. In other words, under the Mellon plan there would be 12,000 income-tax payers in America benefited in a greater degree than under the Garner plan, while under the Garner plan 6,650,000 would receive a greater reduction than would be provided under the Mellon plan. I have before me some figures which bear out the statement I have just made.

Mr. HARRIS. Mr. President——

Mr. HARRISON. I will ask the Senator to allow me to proceed for just a moment. The figures to which I refer are not revealed to the 15,000,000 people whose votes are sought by the Literary Digest. They fail to say that in the State of Arizona, for instance, under the Mellon plan the number benefited greater than under the Garner plan is 1 person, while in the same State 18,476 persons are benefited in a higher degree by the Garner plan than by the Mellon plan.

The Literary Digest fails to state that in the State of Colorado, from which come my distinguished friends Senator PHIPPS and Senator ADAMS, 40 people in the whole State will be

benefited in a greater degree by the Mellon plan than by the Garner plan, while 69,636 will receive a greater degree of benefit under the Garner plan than under the Mellon plan.

Mr. ASHURST. Mr. President, will the Senator yield to me at this point?

Mr. HARRISON. Certainly.

Mr. ASHURST. I wish to say that the one person in Arizona who will receive that benefit is unanimous for the Mellon plan. [Laughter.]

Mr. HARRISON. There is no doubt about that. He is of the same opinion that doubtless the Literary Digest is. In the State of Illinois the Mellon plan will benefit 857 people more than will the Garner plan, while the Garner plan will benefit 610,701 persons in greater degree than will the Mellon plan.

In the State of Kansas—and I am glad to see my friend [Mr. CAPPER] prick up his ears; he is always on the job when Kansas is mentioned. I have no idea he will vote for the Mellon plan, and I am sure my friend the senior Senator from Kansas [Mr. CURTIS] will not vote for the Mellon plan, especially in view of the startling fact that 16 persons in Kansas would be benefited more by the Mellon plan than by the Garner plan, while 88,769 would be benefited more by the Garner plan than by the Mellon plan.

Let me now take the State of Michigan, from which my good friend Senator COUZENS comes. In that State 264 persons would receive greater benefit under the Mellon plan than under the Garner plan, while 249,883 would receive greater benefit under the Garner plan than under the Mellon plan. Yet the distinguished Secretary of the Treasury combats and criticizes the senior Senator from Michigan for fighting the so-called Mellon plan.

Mr. COUZENS. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. COUZENS. Will the Garner plan permit the payment of a bonus?

Mr. HARRISON. I think the Garner plan will permit the payment of a bonus, and I think the Mellon plan will probably permit the payment of a bonus, and if a sufficient number of us here can have our way, there will be a bonus adopted, it matters not which plan, the Mellon plan or the Garner plan, may be adopted so far as that proposition is concerned.

In the State of New Mexico—and there will be an election in New Mexico this year—3 persons will be benefited by the Mellon plan in greater degree than by the Garner plan, while 11,777 will receive greater benefits under the Garner plan than under the Mellon plan.

In Oregon, from which the distinguished senior Senator [Mr. MCNARY] comes—and, I believe, he comes up for election this year—28 persons will be benefited by the Mellon plan in greater degree than by the Garner plan, while 62,776 will be benefited more under the Garner plan than under the Mellon plan. Yet, I imagine the Senator has had thousands of letters from his State asking him to vote for the Mellon plan. The writers did not know anything about the other plans. They were misled by the Literary Digest propaganda, as well as propaganda that has been carried on through the motion pictures of the country, by the railroads of the country on their menu cards, and in every other imaginable way. They have even asked the employees in the shops of the railroads to write their Representatives in Congress and their Senators indorsing the Mellon plan.

In Wisconsin 63 persons would be benefited more by the Mellon plan than by the Garner plan, while 75,214 would be benefited more by the Garner plan than by the Mellon plan.

I suppose somebody in Mississippi might read these feeble remarks, and I had better name Mississippi, because I have had letters from that State. In Mississippi 9 persons would be benefited more by the Mellon plan than by the Garner plan, while 25,605 persons would be benefited more by the Garner plan than by the Mellon plan.

The Literary Digest, through the letters that it has received protesting against this poll, and giving the reasons why the writers voted this way or that way, shows upon its face that this is an unfair poll. Here are some of the expressions touching this matter.

Mr. SIMMONS. Mr. President, before the Senator gets to that, will he yield to me?

Mr. HARRIS. Mr. President——

Mr. HARRISON. I promised to yield to the Senator from Georgia, and I forgot to do so. I yield to him, and then I will yield to the Senator from North Carolina.

Mr. HARRIS. Mr. President, I want to ask the Senator if the word "surtax" is even mentioned in the Literary Digest?

Mr. HARRISON. It is not.

Mr. HARRIS. That is a question about which there is a great deal of difference between the House and the Senate.

Mr. HARRISON. It is not mentioned at all.

Mr. HARRIS. Yesterday the Senator from Pennsylvania [Mr. REED] ridiculed the idea that there has been any propaganda in favor of the Mellon bill; but I want to say, in conclusion, that the Senator from New Hampshire [Mr. MOSES] has consented to call these people before his committee and investigate this matter.

Mr. HARRISON. May I say that the smoke from the industries of Pittsburgh obscures the vision of my friend from Pittsburgh, Pa.?

Mr. SIMMONS. Mr. President, do I understand the Senator to say that this circular letter sent out by the Literary Digest does not even refer to surtaxes?

Mr. HARRISON. It does not.

Mr. SIMMONS. Does not the Senator believe, and ought not the country to understand, that the real crux and object of the whole Mellon plan is to reduce the surtaxes?

Mr. HARRISON. Absolutely. The effort is to reduce the maximum surtax from 50 to 25 per cent.

Mr. SIMMONS. And yet no mention is made of surtaxes in this publication?

Mr. HARRISON. No.

Mr. SIMMONS. That, however, was not the point with regard to which I desired to interrupt the Senator. The Senator referred to a statement which I think is the same statement that has been put in the CONGRESSIONAL RECORD by Mr. GARNER, perhaps. Is that the statement from which the Senator was reading?

Mr. HARRISON. Yes.

Mr. SIMMONS. That statement, I understand, was carefully prepared by experts in some of the departments here.

Mr. HARRISON. May I say that one high official of this administration says that another high official has been juggling facts up in the Treasury, though?

Mr. SIMMONS. Well, it is assumed that that particular expert did not juggle facts.

Mr. HARRISON. I imagine this one is correct.

Mr. SIMMONS. The Senator gave the figures for a number of States. The Senator did not give the figures for the State from which I come, North Carolina. I want to say that I understand that that list shows that there are something over 44,000 Federal taxpayers in North Carolina.

Mr. HARRISON. This statement shows that there are 44,161; that 52 out of that number would be benefited more by the Mellon plan than by the Garner plan, and 44,109 would be benefited more by the Garner plan than by the Mellon plan.

Mr. SIMMONS. Only 52 out of the 44,000 would receive more benefit under the Mellon plan than under the Garner plan. Now, what I wish to suggest to the Senator is this:

The advocates of the Mellon plan are appealing to big business in this country, and appealing to that class of business people, especially manufacturers, upon the idea and theory that they will get greater benefits under the Mellon plan than under the Garner plan. North Carolina is both a great manufacturing and a great agricultural State. It is next to Massachusetts in its textile manufacturing industries. There is one county in the State of North Carolina that has an even 100 cotton factories. There are about 400 cotton factories in the State. These cotton factories are not little affairs; they are large corporations. North Carolina is also a very large manufacturer of wood products. It has one city, the city of High Point, that ranks next to Grand Rapids as the greatest center in this country for the manufacture of furniture. Those are big establishments. We have a large wool-manufacturing interest in the State. We have an immense lumber-manufacturing interest in the State. We are not far down the column in our manufactured products in the list of States; and yet, with all of this great business carried on in North Carolina, with all of these great factories in North Carolina, with a large number of very wealthy people in North Carolina—because our manufacturing industries have thrived wonderfully——

Mr. OVERMAN. Mr. President, I remind my colleague that he leaves out one of the most important industries in the State—tobacco.

Mr. SIMMONS. Tobacco—yes. We are the largest manufacturers of cigarettes in this country. I believe the number of cigarettes manufactured in the State of North Carolina is about one-half of the total number of cigarettes that are sold in this country. With all of this wealth in the State of North Carolina, it appears that only 52 people in that State will get larger benefits from the Mellon plan than from the Garner bill.

Mr. HARRISON. The Senator is right.

Mr. SIMMONS. And yet by propaganda—false, deliberately false propaganda—the business men of my State and these

cotton manufacturers, these woolen manufacturers, these furniture manufacturers, these lumber manufacturers, these tobacco manufacturers, have been led to believe that each and every one of them will derive a larger pecuniary advantage under the Mellon bill than under the Garner bill.

I am glad the Senator has given me an opportunity to say to the business men of my State that they are being misled and deceived about this. A few of them, relatively a very small number of them, will derive more benefits under the Mellon bill than under the Garner bill, while, on the other hand, over 40,000 taxpayers in North Carolina will derive immensely more benefit from the Garner plan than from the Mellon plan.

Mr. HARRISON. The Senator is eminently correct. May I say to the Senator that, notwithstanding all he said regarding his State, this poll, as revealed in the last issue of the Literary Digest, shows from North Carolina 2,454 persons deceived and voting that the Mellon plan was the best plan and only 1,984 voting against the Mellon plan. That is the way the propaganda has been working, simply because all the facts have not been revealed to them.

Mr. SIMMONS. The point I wanted to make to the Senator was that by selecting purely an agricultural State, probably it might be clear to everybody that more persons would be benefited under the Garner plan, because their incomes are small; but the incomes of these manufacturers are large, and yet it can be shown that, segregating the big business interests of the State and the manufacturing interests of the State—and that is one of the largest manufacturing States in the country—only this limited number will derive any benefit from the Mellon plan that they would not derive from the Garner plan.

Mr. HARRISON. Here are some of the expressions written on the ballots to the Literary Digest that show that it is not a fair poll they are taking. One comment runs:

> I am not a Democrat, but think their plan about right.

And yet that individual would have no opportunity to vote in this poll on what he thinks is right.

Another critic writes:

> The Mellon plan is for the big tax dodgers.

That is said to be the belief of several voters; and one man remarks that—

> If amended by the Democrats, it's O. K.

Another one writes:

> I favor the Garner substitute plan as outlined in the Literary Digest.

That is the statement of a Brooklyn man; and several other Brooklyn residents express themselves in favor of the exemption of all "family" incomes under $5,000. Notwithstanding that, the Literary Digest insists on printing on its ballots two questions. One is to vote for the Mellon plan and the other is to vote against the Mellon plan.

In fact, the Literary Digest in this instance is not as fair as the President of the United States. I suppose that the President could be taken as a partisan on some questions. His name has been attached to the Mellon plan, and it is called the Coolidge-Mellon plan, and yet the President was fair enough in his speech in New York the other night to speak, not of the Mellon plan in particular—although he elaborated on the Mellon plan, he advocated the adoption of the Mellon plan—but he called the attention of his audience and of the country to the fact that there were other plans, and he named specifically the Garner plan, and then he argued against the Garner plan. This is a periodical that has always borne the reputation of being fair, and it seems to me that if the President of the United States, partisan as he is, speaks of the Garner plan, certainly the Literary Digest should incorporate it when people wanted to express themselves, that the country might know what the opinion of the country was with respect to these various plans.

I must admit that the President's position is not altogether consistent. May I say, however, before I allude to that, that in this same speech that the President made in New York, when he said, "You have heard much of the Garner plan," and then talked about it, he closed with this utterance, this appeal, which was broadcast by radio to the farthest parts of the country:

> But the people must understand this is their fight. They alone can win it. Unless they make their wishes known to the Congress, without regard to party, this bill will not pass. I urge them to renewed efforts.

So we have this propaganda, strengthened by the Literary Digest for the Mellon plan, championed under the leadership of the President of the United States, appealing to the country to write to the Congress, to express their views, and saying that it is the only way in which they can win the fight. He thereby tied himself in all this mesh, in all this propaganda to foist upon the country the Mellon plan.

Mr. WALSH of Massachusetts. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Mississippi yield to the Senator from Massachusetts?

Mr. HARRISON. Yes; I yield.

Mr. WALSH of Massachusetts. I hope the Senator is not losing sight of the argument made by Secretary Mellon, namely, that this country is so dependent upon the wealth and the money and the influence of approximately 6,000 taxpayers that we must legislate as they want and desire tax reduction, and that if we do not give them what they want they purpose to punish us by denying prosperity to 110,000,000 people.

Mr. HARRISON. The Senator is right. All reactionary Republicans—not Progressive Republicans—plead just that way. President Coolidge is not different from the Senator from Massachusetts [Mr. LODGE]. He is not different from my friend over there, the Senator from Utah [Mr. SMOOT], although that Senator had a broader vision than did Mr. Mellon. He pointed out last summer that it was not the wise thing to bring tax reduction forward at this time, because he has had experience with it. He knew that the kind of a bill he and his committee would bring out to reduce taxes would benefit the big fellows so much and the small fellows so little that the Progressive Republicans over there and the Democrats over here would not stand for it, and would write a bill for themselves. The Senator from Utah was correct. He read what happened in the House yesterday. He will see, when the bill comes over here, that a Democratic bill will be adopted, one that will reduce taxes, but one that will benefit the small taxpayers more, and add greatly to the prosperity of the country.

Mr. COPELAND. Mr. President, did I understand the Senator to say that the President, in his speech in New York, advised the people to make known their wishes to Congress?

Mr. HARRISON. Yes; he spoke eloquently; he spoke cautiously; he spoke carefully, through the radio.

Mr. COPELAND. Does the Senator mean to say that the President advised the people to advise Congress? Is this the same President who was so irritated when the Senate sought to advise him about one of his Cabinet officers?

Mr. HARRISON. That is the same "Careful Cal." He is the same President who told the Senate, when they passed the Robinson resolution, that it would be an encroachment upon the Executive power of the President. That he would not stand for it. Yet sent back to Congress a nomination to appoint Cohen as collector down in New Orleans after the Senate had rejected him once, an act that was contrary to every precedent of an Executive or the Senate. He was willing to criticize the Senate for passing the Robinson resolution on Denby as an Executive encroachment, but unwilling to permit the Senate to further exercise its power respecting nominations when nominees had been rejected by the Senate.

Mr. DIAL. Mr. President, I would like to ask the Senator if there is any precedent on record at all of any President ever sending a name back to the Senate when it had actually been rejected by a vote of the Senate?

Mr. HARRISON. No; I will say to the Senator—but I better not tell what happened in executive session. But I never heard of it.

Mr. MOSES. Will the Senator give unanimous consent to raise the injunction of secrecy on the vote in the executive session?

Mr. HARRISON. I will. I would give the Senator from New Hampshire unanimous consent to do almost anything in the world.

Mr. MOSES. Mr. President, I ask unanimous consent that the injunction of secrecy on the vote taken in executive session on the nomination of Walter Cohen may be raised.

Mr. DIAL. I object.

Mr. HARRISON. The Senator makes that motion; yet when we tried to have considered in open session the nomination of George Harvey—for the mention of whose name I apologize to the Senate—the Senator voted against the consideration of that nomination in the open.

Mr. MOSES. That is true. But, Mr. President, I have never refused unanimous consent for the publication of any roll call taken in executive session. I am entirely willing that my vote cast in executive session or in open session shall be made known to my constituents.

Mr. HARRISON. It does not hurt the Senator to change his position on anything.

Mr. MOSES. I did not change my position. Now, remembering how long and affectionate and intimate has been our association, especially as we have traveled over the country together, the Senator should be fair, even to a friend.

Mr. HARRISON. I have not objected.

Mr. DIAL. Mr. President——

Mr. MOSES. No; but the Senator is undertaking to say that I have changed my position. The fact that I voted against an open session for the consideration of a nomination is an entirely different thing from removing the injunction of secrecy on a roll call. The Senator knows that the injunction of secrecy on a roll call is removed very frequently, whereas open executive sessions are held very rarely.

Mr. HARRISON. I am for making it open; I can not say anything more. If the Senator——

Mr. MOSES. Will the Senator exercise his great and undoubted influence on his colleagues on the other side of the Chamber to let us make that roll call public?

Mr. HARRISON. I have not any influence over here and have none over there.

Mr. MOSES. The Senator is altogether too modest.

Mr. DIAL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Mississippi yield to the Senator from South Carolina?

Mr. HARRISON. I yield.

Mr. DIAL. The South knowing the reputation of the nominee whose name was sent to us the other day, it would not take the publication of any vote to determine where I stood on the question. The people down there would expect nothing else of me than to vote as I voted; so, as far as I am concerned, that ends it.

Mr. MOSES. One by one let the Senators get up and say how they voted, then.

Mr. HARRISON. The Senator knows how I voted. If he will permit me, I ask unanimous consent to say how I voted.

Mr. ASHURST. Mr. President, will the Senator yield to me in that connection?

Mr. HARRISON. I yield.

Mr. ASHURST. Twice in executive session request was made that the roll call on Walter Cohen be made public, and twice it was objected to. I think the Senator from Massachusetts [Mr. LODGE] will bear me out. Twice in legislative session it has been asked that the vote be made public. I do not impute bad faith to any Senator, but after permission was twice refused in executive session that the vote be promulgated, and twice in open session refused, it would be at least color of bad faith further to ask it. I objected in legislative session not for myself but at the request of some Senators who could not be here. So far as I am concerned, every Senator here is at liberty to state how I voted. I give all Senators full permission to say here or elsewhere how I voted. But it is not fair to other men, and I hope that the request will not be repeated.

Mr. MOSES. Mr. President, we have learned a lesson in persistence from the other side this winter.

Mr. DIAL addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Mississippi yield; and if so, to whom?

Mr. HARRISON. I wish I could proceed. I want to get through soon, so that the Senator can make a speech on Walter Cohen.

Mr. MOSES. Oh, do not get through. [Laughter.]

Mr. HARRISON. I stated that in his New York speech the President had appealed to the country to write letters to Congress and to bring influence on Congress in favor of the Mellon plan. I notice in a statement issued yesterday by the Secretary to the President, Mr. Slemp, that he said:

> The President desires me to say that while he is opposed to the granting of the soldier bonus he is completely in sympathy with the protest which the American Legion Weekly voices against this kind of propaganda to defeat the bonus measure. * * *
>
> He believes also that efforts to organize an apparent sentiment against the measure, such as are represented by the circular quoted, are utterly un-American, subversive of the very fundamentals of democracy, and calculated to arouse hostilities between employers and employees. Convinced as he is that the bonus ought not to be granted, he feels keenly that his position in this regard will be infinitely more difficult to support if such methods are to be adopted by those who wish to hold up his hands.

Yet he is in favor of the adoption of a method to put through the Mellon plan to which he is opposed as against the soldiers' bonus. That is "Cautious, Careful Cal." He does not at this time desire to wound the feelings of the soldiers of the country.

APPENDIX.

BENEFICIARIES OF THE DEMOCRATIC TAX REDUCTION PLAN AND OF THE MELLON PLAN, BY STATES.

(Comparative table.)

The following table of the number of persons making income-tax returns in 1921 is compiled from the official figures of the Treasury Department contained in the annual report of the Commissioner of Internal Revenue for 1921.

It shows the total number of persons making income-tax returns in each State and the number benefited more by the Democratic (Garner) plan than by the Mellon plan, and the number benefited more by the Mellon plan than by the Democratic (Garner) plan in each State. The totals show:

Democratic plan gives greater benefits than the Mellon plan to 6,641,262.

The Mellon plan gives greater benefits than the Democratic plan to 9,433.

Income-tax returns by States.

State.	Total number making income-tax returns.	Number benefited more by Mellon plan.	Number benefited more by Democratic (Garner) plan.
Alabama	43,009	35	42,974
Arizona	18,477	1	18,476
Arkansas	33,830	10	33,820
California	386,082	435	385,647
Colorado	69,676	40	69,636
Connecticut	123,269	173	123,096
Delaware	15,889	17	15,872
District of Columbia	89,966	102	89,864
Florida	42,249	28	42,221
Georgia	67,719	48	67,671
Idaho	22,976	3	22,973
Illinois	611,558	857	610,701
Indiana	150,300	86	150,214
Iowa	111,483	42	111,441
Kansas	88,785	16	88,769
Kentucky	69,496	45	69,451
Louisiana	67,930	50	67,910
Maine	44,397	42	44,355
Maryland	112,963	176	112,787
Massachusetts	388,442	749	387,693
Michigan	250,147	264	249,883
Minnesota	124,501	131	124,370
Mississippi	25,614	9	25,605
Missouri	172,519	169	172,350
Montana	36,907	5	36,902
Nebraska	71,853	22	71,831
Nevada	9,719	3	9,716
New Hampshire	32,410	24	32,386
New Jersey	269,096	404	268,692
New Mexico	11,780	3	11,777
New York	1,066,637	3,031	1,063,606
North Carolina	44,161	52	44,109
North Dakota	18,440	2	18,438
Ohio	367,096	539	366,557
Oklahoma	69,381	32	69,349
Oregon	62,804	28	62,776
Pennsylvania	621,103	1,218	619,885
Rhode Island	48,057	138	47,919
South Carolina	25,160	11	25,149
South Dakota	21,681	1	21,680
Tennessee	60,949	31	60,918
Texas	200,188	104	200,084
Utah	26,128	4	26,124
Vermont	17,746	14	17,732
Virginia	76,257	32	76,225
Washington [1]	115,688	30	115,658
West Virginia	75,277	63	75,214
Wisconsin	148,457	108	148,349
Wyoming	22,413	6	22,407
Total	6,650,695	9,433	6,641,262

[1] Includes Alaska.

NOTE.—It is estimated that either plan will raise an adequate amount of revenue or the Government.

MEMORIAL ADDRESS ON THE LATE PRESIDENT HARDING.

Mr. WILLIS. Mr. President, I desire to submit a committee report and to make a very brief statement relative thereto.

On the 6th of December last the Senate adopted a Senate resolution providing for the appointment of a committee of seven Members of the Senate to join a committee to be appointed by the House to consider and report by what token of respect and affection it might be proper for the Congress to express the deep sensibility of the Nation to the death of the late President Harding.

On the 24th of January the Senate concurred in House Concurrent Resolution No. 9, providing for a joint session of the two Houses of Congress to be held in the Hall of the House of Representatives on Wednesday, February 27.

Your committee now makes its report in the form of a program of arrangements. I ask unanimous consent that the two resolutions to which I have referred, together with the committee report, be printed in the RECORD at this point.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the resolutions and the report (No. 163) were ordered to be printed in the RECORD, as follows:

Senate Resolution 21.

Resolved, That a committee of seven Senators be appointed on the part of the Senate to join such committee as may be appointed on the part of the House to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the Nation to the death of the late President, Warren Gamaliel Harding, and that so much of the message of the President as relates to that sad event be referred to such committee.

House Concurrent Resolution 9.

Whereas the sudden death of Warren G. Harding, late President of the United States, occurred during the recess of Congress, and the two Houses desire to give fitting expression to the general grief and to commemorate his most notable services to his country and the world: Therefore

Be it resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on the day and hour fixed by the joint committee, to wit, Wednesday, February 27, 1924, at 12 o'clock noon, and that in the presence of the two Houses there assembled an address upon the life and character of Warren G. Harding, late President of the United States, be pronounced by Hon. Charles E. Hughes, and that the President pro tempore of the Senate and the Speaker of the House of Representatives be requested to invite the President and the two ex-Presidents of the United States, the former Vice President, the heads of the several departments, the judges of the Supreme Court, the ambassadors and ministers of foreign governments, the governors of the several States, the General of the Armies, and the Chief of Naval Operations to be present on that occasion: And be it further

Resolved, That the President of the United States be requested to transmit a copy of these resolutions to Mrs. Harding and to assure her of the profound sympathy of the two Houses of Congress for her deep personal affliction and of their sincere condolence for the late national bereavement.

PROGRAM OF ARRANGEMENTS.

The Capitol will be closed on the morning of the 27th day of February, 1924, to all except Members and officers of Congress.

At half past 10 o'clock the east door leading to the Rotunda will be opened to those to whom invitations have been extended under the joint resolution of Congress by the Presiding Officers of the two Houses, and to those holding tickets of admission to the galleries.

The Hall of the House of Representatives will be opened for the admission of those who have invitations, who will be conducted to the seats assigned to them, as follows:

The President of the United States and his Cabinet will occupy seats in front of and on the left of the Speaker.

The Chief Justice and Associate Justices of the Supreme Court will occupy seats in front of and on the right of the Speaker.

The General of the Armies and the Chief of Naval Operations will occupy seats back of the President and his Cabinet and on the left of the Speaker.

The ambassadors and ministers of foreign governments will occupy seats on the left of the Speaker in section A, west.

The former Vice President and Senators will occupy seats back of the President and his Cabinet and the Supreme Court, and on the east and west side of the main aisle.

Governors of the several States will occupy seats on the right of the Speaker in section A, east.

Representatives will occupy seats on the east and west side of the main aisle and back of the Senators and governors of the several States.

Ex-Members of the House will occupy seats assigned to them back of the Members.

The Executive gallery will be reserved exclusively for the family of the President, the families of the Cabinet and of the Supreme Court, and the invited guests of the President.

The diplomatic gallery will be reserved exclusively for the families of the ambassadors and ministers of foreign governments. Tickets thereto will be delivered to the Secretary of State.

The House of Representatives will be called to order by the Speaker at 12 o'clock.

The Marine Band will be in attendance at half past 11 o'clock.

The Senate will assemble at 12 o'clock and, immediately after prayer, will proceed to the Hall of the House of Representatives.

The ambassadors and ministers will meet at half past 11 o'clock in the Ways and Means Committee room in the Capitol and be conducted to the seats assigned to them in Section A, on the left of the Speaker.

The President of the Senate will occupy the Speaker's chair.

The Speaker of the House will occupy a seat at the left of the President of the Senate.

The Secretary of the Senate and the Clerk of the House will occupy seats next the presiding officers of their respective Houses.

The other officers of the Senate and of the House will occupy seats on the floor at the right and left of the Speaker's chair.

The chairmen of the Joint Committee of Arrangements will occupy seats at the right and left of the orator, and next to them will be seated the officiating clergymen.

Prayer will be offered by the Rev. James Shera Montgomery, Chaplain of the House of Representatives.

The presiding officer will then present the orator of the day, Charles Evans Hughes, Secretary of State.

The benediction will be pronounced by the Rev. J. J. Muir, Chaplain of the Senate.

By reason of the limited capacity of the galleries the number of tickets is necessarily restricted, and will be distributed as follows:

To each Senator, Representative, Delegate, and Commissioner and elected officer of the Senate and of the House, one ticket.

No person will be admitted to the Capitol except on presentation of a ticket, which will be good only for the place indicated.

The Architect of the Capitol, the Sergeant at Arms of the Senate, and the Doorkeeper of the House are charged with the execution of these arrangements.

FRANK B. WILLIS,
THEODORE E. BURTON,
Chairmen Joint Committee.

SWIFT & CO., ET AL.

Mr. NORRIS. Mr. President, I submit a resolution and ask unanimous consent for its present consideration. It simply asks for some information. There can be no possible objection to it.

The PRESIDING OFFICER (Mr. MOSES in the chair). Is there objection? The Chair hears none, and the resolution will be received.

Mr. ROBINSON. Let it be read.

The PRESIDING OFFICER. The resolution will be read for the information of the Senate.

The resolution (S. Res. 167) was read, as follows:

Resolved, That the Attorney General be, and he hereby is, directed to furnish the Senate with the following information:

1. Has the Department of Justice enforced the so-called consent decree in the case of the United States of America, plaintiff, *v.* Swift & Co. et al., defendants, entered in the Supreme Court of the District of Columbia on February 27, 1920?

2. If said decree has not been enforced, give the reasons for such nonenforcement.

3. Does the Department of Justice regard said decree as legally enforceable? And, if the same is not in the judgment of the Department of Justice legally enforceable, then give the reasons why the same is invalid.

4. If said decree is in the judgment of the Department of Justice invalid, then has the same been invalid from the beginning?

The PRESIDING OFFICER. The Senator from Nebraska asks unanimous consent for the present consideration of the resolution. Is there objection?

The resolution was considered by unanimous consent and agreed to.

CHATTAHOOCHEE RIVER BRIDGE.

Mr. HEFLIN. I ask unanimous consent for the present consideration of House bill 3198. It is a bill that provides for the building of a bridge across the Chattahoochee River in Barbour County, Ala. It is favorably reported, and there will be no opposition to it. It will take only a moment to pass it, and I am anxious to get action on it to-day.

The PRESIDING OFFICER. The Secretary will state the title of the bill for the information of the Senate.

The READING CLERK. A bill (H. R. 3198) to authorize the States of Alabama and Georgia, through their respective highway departments, to construct and maintain a bridge across the Chattahoochee River at or near Eufaula, Ala., connecting Barbour County, Ala., and Quitman County, Ga.

The PRESIDING OFFICER. The Senator from Alabama asks unanimous consent for the present consideration of the bill. Is there objection?

There being no objection, the bill was considered as in Committee of the Whole, and it was read, as follows:

Be it enacted, etc., That the States of Alabama and Georgia, through their respective highway departments, be, and are hereby, authorized

to construct and maintain a bridge and approaches thereto across the Chattahoochee River, at a point suitable to the interests of navigation, at or near Eufaula, Ala., connecting Barbour County, Ala., and Quitman County, Ga., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

INTERIOR DEPARTMENT APPROPRIATIONS.

Mr. DIAL obtained the floor.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Utah?

Mr. DIAL. I yield.

Mr. SMOOT. Mr. President, we have had House bill 5078, the Interior Department appropriation bill, before this body for 11 days. Not one word of it has been read from the desk, and I am going to ask Senators now to allow the bill to come up. Let us pass this appropriation bill. I do not think it will take very long, but really I think the time has arrived when Senators ought to take up the pending appropriation bill and pass it. I do not know how long the Senator from South Carolina is going to speak; I do not know whether he is going to speak on the bill or not; but I ask the Senator, if he is not going to speak on the bill, to allow us at least to have a little time to-day for the consideration of the appropriation bill.

Mr. DIAL. Mr. President, I think we will have a great deal of time if other Senators will not take any more time than I shall. I will be very brief in what I have to say.

Mr. SIMMONS. Mr. President, will the Senator from South Carolina yield to me to ask unanimous consent to introduce a bill, out of order?

Mr. DIAL. I gladly yield.

[The bill introduced by Mr. SIMMONS appears under its appropriate heading.]

Mr. SMOOT. Mr. President, I give notice now that if we can not proceed with the appropriation bill very soon I shall object to any business being transacted, by way of the introduction of bills, reports, or anything else, until we do get some action upon the bill. I really think it ought to be acted upon promptly.

AMENDMENT OF COTTON FUTURES CONTRACT LAW.

Mr. DIAL. Mr. President, on the first day of this session I introduced a bill to amend the cotton futures contract law. The Committee on Agriculture and Forestry has had that bill ever since and has not made any report on it. Several times I have asked them to make some kind of a report to the Senate on the bill, and I can not understand why they are so long delayed. I would ask the committee, if they can not agree upon the bill and present a favorable report, that they return it to the Senate without any report. Then we will see if we can get it passed on the floor of the Senate.

I have had this question up in various past sessions, and on March 16, 1922, I had it referred to the Federal Trade Commission. That body investigated it, and in the last week of the last session sent to the Senate a preliminary report, which has been published as a public document. I ask that a portion of that preliminary report, beginning at the middle of page 26 and ending on page 27, be printed in the RECORD as an appendix to my remarks.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

[See Appendix.]

Mr. DIAL. I will take but little time in reading the different documents about which I propose to speak. On page 27 of the Federal Trade Commission's report it is said:

> Under these conditions the price received by the producer, who has actual cotton to sell in the spot market, would logically seem to be unfavorably affected.

I can not understand why the Federal Trade Commission is taking so much more time to make a final report, this being a preliminary report. I have great respect for the commission and great confidence in it, but it does seem to me that if any investigating body can not come to a conclusion within about two years they might as well dismiss the subject.

I do not know why the committee is waiting so long. I am ready to go forward any day if they want to hear from me, and I want to give notice now that unless there is a report in the next few days I shall make a motion to discharge the committee from the further consideration of the matter.

I expect in a few days to take up some of the time of the Senate in making a speech on this subject, but as we are anxious to proceed with some other matters now I shall only take a little time to-day. I want to say, however, that this is the greatest problem to-day for the people in my section of the country. A correction of this law would be worth more to our people than all the rest of the remedial laws we could put together.

I send to the desk and ask to have read a short editorial from the Columbian State, a newspaper published in my State, on December 11, quoting a reply from the Manufacturers' Record, of Baltimore. We all know the high standing of these two great journals, and I am glad to have the Senate listen to what those papers have to say about my bill proposing an amendment to the present law.

The PRESIDENT pro tempore. The Secretary will read as requested.

The editorial was read, as follows:

[From the Columbian State, December 11, 1923.]

"NO HONEST MAN CAN FAVOR SYSTEM."

Ten days ago, assuming the South's 1923 cotton crop to be 9,500,000 bales, the raw cotton was worth $190,000,000 more than it is to-day. The drop in price has been $20 a bale in so brief a time.

But while that huge amount represents the loss to the holders of the cotton, has the crop actually decreased a dollar in intrinsic value? Two weeks ago it was reported from New York and New Orleans that British spinners had their agents in the South buying cotton wherever it could be found. Those spinners and the American spinners then buying paid $20 a bale more for cotton than to-day's quotations, and that cotton is still worth to them what they paid for it; they would not sell for the price paid. But on mere rumor, unsupported by even a Government estimate, the prices start downward and the gamblers rush to sell cotton they have not got; and selling for future delivery, they have the option in their contracts of delivering any 1 of 10 grades. That form of contract alone operates to lower the price.

In the latter part of November the State commented favorably upon Senator DIAL'S bill before Congress for the regulation of future contracts, in which reference was made to the Manufacturers' Record, of Baltimore. The following letter from Richard H. Edmonds, editor of the Record, will be gratifying to those desiring influence on the side of reform and honesty in cotton contracts for future dealing:

To the EDITOR OF THE STATE:

In your issue of November 28, referring to some statements made in the Manufacturers' Record, you say:

"Will not the great trade journal of Baltimore, which has for so long championed southern industries, study the bill proposed by Senator DIAL, of South Carolina, for changing the basis of contracts in 'future' trading and pass judgment on the Senator's article in support of that measure?"

Last spring, at my request, Senator DIAL prepared for us an elaborate presentation of his views on the reason for his bill, and it afforded me very great pleasure to give as conspicuous attention to his article as I could possibly do.

I have believed for many years that much of the trading in future cotton contracts in New York and New Orleans is gambling, pure and simple, with loaded dice as against the producers, and have said so many times. While some improvement has possibly been made in the matter of the basis for contracts, I am unable to see how any honest man can favor the system which has prevailed in the past, a system which enables the seller to avoid delivering the thing that he sells, and often compels the buyer to take a thing which he did not purchase.

RICHARD H. EDMONDS.

BALTIMORE, *December 7.*

When the paper value of the South's crop drops $190,000,000 in 10 days, and the price to the producer falls $20 a bale, not because of supply and demand but on account of panic of gamblers, who may depress the price by selling something which they have not got to deliver, it is high time for southerners in Congress to give serious consideration to Senator DIAL'S measure, which is directed toward stabilizing the price of cotton. Congress can and should put an end to a system which Mr. Edmonds declares "no honest man can favor."

Mr. DIAL. Mr. President, the Manufacturers Record speaks of the present law being some improvement over the former custom. I have made various talks on the subject, and in every one of those I have always said that the present law was a great improvement—indeed, a very great improvement—over the former custom. The framers of the law deserve great credit and the gratitude not only of the South but of the people of the country, because this is a national question. Unfortunately, however, there are two sections in the law, and the New York Exchange will not carry out one of those sections. That is where the trouble comes in it for the South. If they would carry out the law as Congress intended it, it would be a

perfect law, all that I could ask, or all that anybody else could ask; but they will not deal under the second section, and by that means the market simply goes wild.

Some time ago the Legislature of South Carolina passed a resolution indorsing my proposition. A short time previous to that the Legislature of Alabama unanimously indorsed the proposition.

I send to the desk and ask to have read a letter which I received on yesterday. I have torn off the name of the town and the name of the writer, because I have not the permission of the writer to make the letter public, but I desire that it be read. The writer understands the proposition and correctly diagnoses the case.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The principal legislative clerk read as follows:

FEBRUARY 16, 1924.

Hon. N. B. DIAL,

United States Senator, Washington, D. C.

DEAR SENATOR: I have read the amendment proposed by you to the cotton futures act, and feel that it is a splendid effort in the right direction. I have bought a few bales of cotton on the New Orleans Exchange, and they run the gamut on the grades of cotton, and the list is such that no one wants it. They now deliver gin-cut cotton on the exchanges, and the grades are generally arranged so that one who takes the cotton receives a few bales of the highest grade and a few bales of the next highest grade and one or two bales of the next highest, and all the way down the list and all on one contract of 100 bales. That has been my experience.

——— ——— wrote me last fall and begged me not to take 300 bales of cotton on contract for the reason that the cotton was undesirable. I took the cotton, however, and was compelled to sell it back on the exchange. No person wanting spot cotton would have a motley, mixed lot like was given to me. If a person can not buy what he wants on the exchange, then it is a pure gamble. If a person can buy what he wants on the exchange, then the exchanges can serve a useful purpose; otherwise they are pure gambling houses. The purchaser has no say-so whatever at the present time as to the kind, quality, or grade of cotton he receives. He is in the dark. He is buying something and does not know what it is. It is pure gambling. If I can buy what I want on or through the exchange, then the exchange is useful.

You will do the country and especially the South the very greatest service, and in my opinion the greatest that can be rendered the South by making the exchanges deliver as nearly as possible what a man wants and buys.

Mr. DIAL. I want to state that the letter just read was written by some one who does not live in my State and whom I do not know. I never heard of him before.

I hold in my hand now a list, which I ask to have inserted in the RECORD, showing the fluctuations of cotton for 20 years. It is a table showing that the average high price was 20.58 cents, the average low price was 11.92 cents, and the fluctuation, therefore, was an average of 8.66. The list shows that often this commodity fluctuated over 50 per cent. This is very enlightening and no doubt Senators will be glad to have it in the RECORD in order that they may read it.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Range of cotton prices for 20 years.

[Based on official quotations for middling in New York.]

Calendar year.	Highest.		Lowest.		Range.
	Month.	Price.	Month.	Price.	
		Cents.		*Cents.*	*Cents.*
1903	December	13.70	January	8.85	4.85
1904	March	16.65	December	6.85	9.80
1905	December	12.60	January	7.00	5.60
1906	January	12.25	September	9.60	2.65
1907	September	13.55	November	10.60	2.95
1908	January	12.25	October	9.00	3.25
1909	December	16.15	January	9.25	6.90
1910	August	19.75	do	13.85	5.90
1911	May	16.15	December	9.20	6.95
1912	July	13.40	January	9.35	4.05
1913	October	14.50	June	11.70	2.80
1914	May	14.50	December	7.25	7.25
1915	December	12.75	January	7.90	4.85
1916	November	20.90	February	11.20	9.70
1917	December	31.85	do	14.30	17.55
1918	September	38.20	May	25.70	12.50
1919	December	40.25	February	25.00	15.25
1920	July	43.75	December	14.50	29.25
1921	September	21.55	June	10.85	10.70
1922	December	26.80	January	16.45	10.35
Average		20.58		11.92	8.66

Mr. DIAL. Let any Senator study this list and see where any other business in the world except farming would be if the commodity fluctuated in that manner. Where would a merchant be if his merchandise declined 50 per cent in a month or two? Where would any man be, and how long could he stay out of the hands of the sheriff, with one month of high price and another month of low price, such as applies in the cotton business. The worst part of it is that it discourages the people of the whole South in the production of cotton. There is no common sense and no reason why a bale of cotton should bring $10 less at 3 o'clock in the afternoon than it brought in the morning.

Not only that, but we are killing the industry. Our people can not long continue to raise cotton with such great uncertainty. I was raised as a boy in the country. Shortly after the Civil War the plantations were owned by people who resided upon them. Those people were out of debt. They owned the land. They owned the stock. I never heard of a mortgage, at least I have no recollection of hearing of a mortgage on a farm, until I was almost grown. I believe the statistics show that to-day 82 per cent of the farms of the country are under mortgage. It is a difficult matter to find one that is not under mortgage, and largely because of the cotton futures contract law. We need to correct that condition. In the South we have to correct our method of overproducing cotton, and we should diversify and make the crops that we need to consume on the farm. Then we will begin to be a prosperous people again.

We legislate here and talk about legislation. I believe the Committee on Agriculture and Forestry has been busy since Christmas hearing evidence and trying to formulate some plan to help the farmer. We get out a whole lot of nostrums here encouraging the farmers to go on and produce. Some of those things are very good, but they do not relieve the farmer of his main trouble. It is just like paregoric, which is pretty good for some ailments, but some of the remedies we propose here would be like giving about two drops of paregoric to an elephant for a pain. What we need in my country is to let our people get a better price for what they produce. We can never stabilize the price of cotton as long as this law remains on the statute books. That is fundamental.

I am not asking for an appropriation of Congress, as most bills here do. I am insisting that the people have a right to have the law so amended that it will deal justly with them. I am not even asking for a favor. But I fear the idea has not percolated through the brains of some of my colleagues as to the great injustice the law does the farmer. They say it is fair between the buyer and the seller. I do not admit that; but, for the sake of argument, admitting that it is true, what I am complaining about I can illustrate in this way: I go to a man and say, "I hear you are selling wheat on the exchange." "Yes, sir." "I want to make a contract, and here is my check for the market. What is the price?" "Seventy-five cents a bushel." "I am delighted. I thought it was about a dollar." "Oh, no. I ought to tell you that my wheat is one-fourth damaged and I am selling 3 pecks for a bushel." "I thought there must be something wrong, but the price is low and we will let the trade stand."

I am not complaining about that one transaction, because the buyer and the seller know what they are doing. What I am complaining about is that when that quotation goes out in the afternoon paper as 75 cents a bushel for wheat it fixes the price of the man's wheat in the country who only has 97 bushels. It does not tell the whole story. Here is a future quotation which covers the price of "spot" cotton. It is supposed to be the quotation of "middling" cotton, but it is not; it is on the basis of "middling," with a sliding option to the seller to deliver any 1 or all of the 10 grades on contract, as is shown by the letter which I read awhile ago. That future price, fixing the price of the spot commodity, ought to be an honest price, a fair price, a mutual price, just as in the case of any other commodity, but as it is now it works something like this: One goes to a store and says, "I wish to buy a yard of cloth. What is your price?" "Thirty cents a yard, but I am only selling 30 inches to the yard." "I thought there was something wrong. Your price is cheap." I am not complaining for the buyer, for he consented to it, but when the quotation goes out that that cloth is selling at 30 cents per yard and is only 30 inches to the yard, I want it to represent 30 inches to the yard. Otherwise it is a one-sided quotation, as Senators will see; it is a depreciated quotation.

I can not see how any fair-minded people can insist upon letting one of the two sections of the law remain. One is a perfect section, and we ought to say to the exchanges, having put section 10 into execution, they should be forced to observe

it or not to operate at all. Mr. President, we ought to accomplish something that is real.

To illustrate: Some time ago a farmer came into my office and said, "DIAL, we farmers can not exist any longer; we can not continue to farm any longer paying the high interest rates we pay." I said, "All right; let you and I talk about this matter and find out the trouble. How much interest do you pay?" "I pay 8 per cent." "How much money have you borrowed?" "I have borrowed $400." "How many plows do you run?" "I run two plows." "How long did you borrow that money for?" "I borrowed it for six months." "How much interest do you think you ought to pay?" "I think I ought to pay only 6 per cent." "How many bales of cotton do you make?" "I make 15 bales." "Well, now," I said, "my friend, I sympathize with you; do not go out of here and say that I am in favor of a high rate of interest. That is a question between the borrower and the lender, and you should borrow money for as cheap a rate of interest as you can, but let you and I see where your trouble is. According to your statement you pay $4 a year more interest than you think you ought to pay on a two-horse farm. I want to get you a better price for your cotton. I am satisfied, as surely as I am that the sun shines, that I can get you 1 cent a pound more for your cotton. That would mean $75. I believe, as firmly as I believe that I am living, if this law be corrected we would get you at least 5 cents a pound more for cotton, which would mean $375 to a two-horse farmer. Now you can see where your trouble comes in, not that I am in favor of a high rate of interest; in fact, I have been a borrower all my life, and I want to get money for you as cheaply as I can. I wish to get it at just as low a rate of interest as possible."

I think, however, the trouble was that the farmer did not diversify his farming and raise at home the things that he could consume; and, besides that, he did not get a sufficiently high price for what he produced. The remedy for that, as I stated at home on the stump, is for us to correct the wrong that we perpetrated upon ourselves in raising too much cotton and competing with ourselves, and in not pursuing a diversified agriculture. For us to continue to permit the present law practically to rob the people out of a large proportion of every pound of cotton that they raise is inexcusable.

Mr. President, I said some time ago that, perhaps, the South lost $1,000,000 a day by reason of this law. I realize that that is an extreme statement; that it sounds almost radical; that it sounds almost foolish; but I hope I am not given to making such assertions. Let us see about that. Before the war the average crop of cotton in the South was about 13,000,000 bales a year. One cent a pound on 13,000,000 bales of cotton would amount to $65,000,000; 5 cents a pound would be practically $1,000,000 a day. The figures which I sent to the desk a little while ago show that the fluctuation from the highest to the lowest is 8.66 cents, which would amount to over a million and a half dollars a day for every day of the year. Of course, I do not mean that the planters can always sell their cotton at the highest price; that would be a little bit extreme, but it brings to the attention of the Senate some basis upon which to calculate.

Mr. President, I am not going to take much more of the time of the Senate, but I hope that the great Agricultural Committee of the Senate, composed of some of the ablest men in this body, will get to work and bring my amendment back here; or, if they can propose a better one to help the farmers of the South, let them tear mine up and throw it in the wastebasket and let us adopt another. I want this question disposed of; I want it brought out and debated, and I am going to do everything in my power to have it disposed of at an early date. If we shall not do so, there will be no chance of getting it passed at this session. I am not satisfied to sit here and wait on any more delay or to wait on anybody else or any other organization. I feel that the representatives of the South in Congress, although every man, of course, can act for himself, should get together, hold meetings day and night, even on the Sabbath if necessary, and agree upon a bill to help relieve our people from the present iniquitous law.

Mr. President, it is a Chinese puzzle to people who never heard of it before or to those who do not begin at the beginning and follow the argument through, but it is just as simple as a sum in arithmetic when you sit down and figure it out. I have not seen a man yet who has given the matter honest attention and who understands it but will agree that the present law is one-sided. Unfortunately not one man in 5,000 in the country outside of the South and perhaps not one in a thousand in the South knows a bit more about it than a fish knows about music. They can not understand what is wrong until they know the law.

If this principle were applied to any other commodity in the world the same result would follow, namely, a depreciated commodity. Let me suppose a case, Mr. President. Assume that the law provided that 10 grades of lumber only should be dealt in on the exchange, if there were such a thing as a lumber exchange, and suppose I should go to my friend the Senator from North Carolina [Mr. SIMMONS] and say, "I hear you are going to build a number of houses," and he should say, "Yes; I am." Then I should say, "I am a lumber drummer; I have flooring for $1 a hundred up to $10 a hundred; I want to sell you some at graduated prices." And suppose the Senator from North Carolina should say in good faith, "Here is my check; put me down for so many thousand feet of it." Then, I come back next week and say, "I am going to ship that lumber to you in a few days, but I am going to send to you all of it in dollar a hundred lumber." The Senator from North Carolina says, "No; I am building houses; I can not use that kind at all." I reply, "I know that, Senator, but I am the seller, and under the law I have a right to select for delivery any one of 10 grades I see proper, and I am going to give it to you in the sorriest grade." The Senator from North Carolina would say, "DIAL, that lumber is only suitable to build barns and chicken coops with; I will not have it. You, however, have my check, send the lumber to some one else and save me whatever you can out of my check." I go around and sell it to some woodyard or other, and go back and say to the Senator, "I saved you a few dollars out of your check. Let me sell you some more lumber." Then the Senator from North Carolina says to me, "My friend, you had not any right to deliver me all of the lumber which I ordered in one grade which I could not use when I ordered other grades. I object to you fixing the quality of the lumber under the order which I gave, and I will not agree to buy any more while you have a sliding option to deliver to me any grade that you see fit."

The same principle may be applied to hats or shoes or to any other commodity in the world, and the same result would follow, namely, a depreciated price. I care nothing for the matter as between the buyer and the seller of the contract, if it can be limited to them, but when the quotation which goes out on the market fixes the price of the other fellow's commodity he is the man in whom I am interested. It ought to be a fair contract, a mutual contract, a definite contract, like any other contract in the world. I am not trying to secure the passage of a radical law; I am trying to correct a one-sided law.

It might be asked what have the farmers in South Carolina got to do with the New York Exchange or the New Orleans Exchange? What are they talking about? Let the farmer plow and raise cotton for the world and let him get what he can for it. What has he got to do with the exchanges? He has nothing to do with them if we can keep the exchanges from having something to do with him; but when the yardstick goes out from the exchanges as the measure of the price of cotton it ought to be a 36-inch yardstick. The quotation, however, which comes from the exchanges is a false quotation; it is a misrepresentation. I do not say the buyers do it intentionally; but, for example, a buyer might go to the Senator from North Carolina [Mr. SIMMONS], who is a good farmer, and say, "I hear you have a hundred bales of cotton in the warehouse; do you want to sell them?" "Yes, sir." "What do you want for the cotton?" "This morning the price was 34 cents a pound." "Well, Senator, you are out of line; here is a quotation from New York, received just 10 minutes ago, of 33 cents." He makes the Senator believe that is a quotation for middling cotton on the New York Exchange delivered next month. I do not say he tells a falsehood intentionally, but he misrepresents the real fact and he misleads the seller. It is true that he has that quotation; it is true that he can buy that contract at that price if he can get his telegram and money there quickly enough; but it is not true that he can get any one of the 10 grades that he desires; he has to take whatever grades the seller offers, although he may not be able to use those grades in his business generally.

Some one may ask, Is he not willing to take some other grade at the market price? Is he not willing to pay the market price? No; he is not willing to pay the market price for something he can not use. The Senator from Alabama [Mr. HEFLIN] may be willing to pay the market price for a hat that suits his style and his beauty and is the right size, but he would not buy a hat at the market price if it does not suit him; he would not have it at the market price. Therefore no one will buy his contract. No one will contract to buy cotton even at a fair price not knowing what he is going to get under the contract. It is so simple that it can not be made more simple.

Mr. President, some one may say that the object of allowing the seller to tender the contract in any one or all of the 10

grades was for the benefit of the farmer, so that the farmer could undertake to sell his cotton before the harvest or even before he planted it and then gather his cotton and sell it on the contract, and say "Here it is; take it." I do not object whether it is 10 grades or 15 grades. I merely want to specify what is going to be delivered.

Let us see whether or not there is any virtue in the proposition. As the cotton men from the South know, not one man in a hundred raises a hundred bales of cotton, which is the unit of the exchange, and not one man in a thousand ever contracts to sell his cotton through the exchange. I venture to say that not one in ten thousand ever delivers a bale of cotton that he grew himself through the exchange. I ran a warehouse down near Columbia for twenty-odd years, and we handled about half the cotton that came to my town, thousands and thousands of bales every year, and I never heard of a bale being delivered on a contract. I never heard of but one farmer in the South who sold his cotton ahead and tried to deliver it on a contract. That was a rich farmer in my adjoining county who sold 200 bales on contract here a few years ago, when the price was very high in the fall, and gathered his cotton, and wrote to his broker that he wanted to send him the cotton. The broker replied, "Why, man, do not ship cotton from South Carolina to New York at a cost of about a cent and a quarter a pound. Sell your cotton to some exporter or some mill, somebody who is going to use it, and close out your contract." That is what he did; so, you see, that is a hollow mockery. There is no meat in it. If you do provide a market, it is at a depreciated price; and what we want is a fair price for what we raise.

I see the Senator from Connecticut here, and I am glad he is here, and others besides; but I want to say to you all, and to Senators from all over the United States, that this is not a local question. It is a national question. I might say it is an international question. Here are these great exchanges, buying and selling contracts in Liverpool. The prices of those contracts affect New York and New Orleans, and in a few minutes they affect the price down on my plantations. That being true, under those one-sided quotations, those depreciated quotations, they take the crop from us for less than it costs to raise it, and they take the commodity out of the United States, make it up into goods, and send them back here to compete with our own people. When we have to sell it for less than it is worth, and often less than it costs us, we are deprived of our ability to buy goods from the other sections of the country. Therefore you are interested in the proposition.

Why, take this English crowd over here. Last summer they came over here, two of them, representing the spinners and the exchanges over there. They visited the South. Our people treated them courteously, as they treat everybody. They looked into the cost of this last crop, and they said that having produced it so cheaply and so economically, and our people having worked so hard, 12 cents a pound would be a good price for it. The harder our people work, and the more numerous the boll weevils get, and the more we deprive ourselves of things, the more this law operates against us and the more the manufacturers of the world are allowed to buy what we raise for less than it costs us. Senators, I believe in keeping some people out of this country—some of the ignorant folks and the vile folks—but I do not think we will make much of a mistake in keeping out of this country the class I have spoken about. I know who they are; I have the names in my desk here; and I know to whom they made this remark; and yet you men sit here and allow this one-sided law to remain on the statute books.

Senators, if I had my way, I would serve notice that we would stop every spindle in the country until this law was corrected. The idea of having an exchange with this one-sided proposition to it! You do not have any exchange at all for wool, and the price of that has been steady. You do not have any for iron and coal and steel and lumber and wool and various other things.

In conclusion, my friends, I am going to give you just one more illustration:

In 1920 we made in the United States less than 13,000,000 bales of cotton, and yet on the New York and New Orleans exchanges, outside of Liverpool, Bremen, Havre, Alexandria, and plenty of other exchanges in the world, they sold contracts amounting to over 128,000,000 bales of cotton, and they delivered about 350,000 bales to this country—I mean the two exchanges of this country.

Mr. President, by reason of this indefinite law men will sell contracts much cheaper than they otherwise would. We are fussing now about the supply and demand, about some figures as to the supply that have been doctored up, and we are trying to correct them, and I hope we will; but what use is there in finding out whether the Government has made a mistake or forced a balance by about 579,000 bales when on the New York exchange they can put up that many contracts in one afternoon?

Now, Senators, listen: Let us suppose that every mill in the world has contracted for all the cotton it needs for 12 months. Let us suppose, then, that all the people in the world have bought all the shoes they need for 12 months, or all the hats they need. Let us suppose they keep on auctioning off cotton every day in the year, as they do now.

Let us suppose that they commence to auction off shoes, and continue through the 12 months of the year auctioning off shoes: Would not the price of the shoes and the cotton that they auctioned off go down if everybody had contracted for all he wanted? Would not the price of the commodity that we had on hand, the cotton and shoes that we had on hand, go down? You can not stimulate consumption to more than a small extent, but there is no stop to the selling. If the New York exchange wants to buy a thousand bales of cotton, they have the cotton, or they will say, "Just wait a minute, and I will have it," and 10,000 bales will be offered for sale, and 20,000, and 100,000, and 200,000. I saw the other day where one man sold 100,000 bales of cotton, and I doubt if he ever saw a bale of cotton in his life; and he broke the market a hundred points, $5 a bale.

Senators, does it take any smart man to see that if that man had to specify the grade of cotton that he was contracting to sell, he would fix as low a price on that as he would when he could contract to sell cotton, and that meant that he could pick out any one or all of 10 grades, as he saw proper? Does he not contract to sell it for less all the time, and does not that price fix the price of Bill Jones and Sam Smith down in Laurens County, where I live? That is what I am talking about.

Senators, I want to be kind, but I am going to bring this matter to a head at the earliest possible date. I should be a traitor to the memory of my old father, who was one of the best farmers in the upper part of South Carolina, and who taught me this principle, if I did not try to correct the present condition.

Mr. President, I shall not take up any more time at present. I hope to make a speech on this matter in a few days; and, while I know it is a little unusual, I want to say to the Senators that if they will come in and take seats and listen to me for 45 minutes, I do not think I will open my mouth on cotton again during this session, or perhaps the next.

APPENDIX.

EFFECT OF SELLER'S OPTION CONTRACT ON PRICES TO PRODUCER.

The cotton futures act, for the ordinary seller's option contract, grants the seller of a contract for future delivery of cotton the option of delivering any one or more of 10 grades, the money payment being adjusted to equalize the difference in value, and also the option as to the day of delivery in the delivery month. The commission believes that the effect of these options on the part of the seller, as distinguished from the buyer, is generally to make the futures price lower than it probably would be if corresponding buyers' option were used instead. The seller is given a right by law to determine under the contract both the time of delivery in the delivery month and the grade of cotton, and no corresponding contract is provided for with options for the buyer, although provision is made for contracts for delivery of specific grades in the law (which latter provision is practically never used). While a balance between buyers and sellers with respect to value of grade contracted for and grade delivered under present methods may be made by a money payment, the element of quality of goods sold and the option of the seller to choose the qualities delivered may affect the futures price.

While traders in futures under these sellers' option contracts may be able to take care of themselves in this matter, and thus the situation may be equitable as between buyers and sellers of futures merely, the matter of fundamental importance is the relation between future prices and cash prices. Both in New Orleans and New York there is generally an absence of parity between daily spot prices reported to the Department of Agriculture and daily closing future prices as recorded by the exchange throughout the month of the maturity of the future contracts. This is not an entirely satisfactory basis of comparison; a better test would be the daily average spot quotation of middling upland cotton of average staple or quality and the daily average future quotation. In the last three years the future, according to the best data now available, however, has been generally lower. But a part of the difference may be due to differences in staple, etc., of the spot cotton compared with that which is delivered on future contracts. Such delivery-month discounts, from whatever cause due, probably are reflected also in the general spread between cash and future prices in prior months. This situation, for the reason stated in the next paragraph, may have a tendency to affect unfavorably the prices received by producers of cotton.

Future prices made on the exchanges are more broadly disseminated than spot prices, partly because of the interest in them of a broadly distributed speculative public, and partly because the future price is more standardized or easier to describe adequately for commercial purposes. Spot prices are largely quoted on the basis of futures (i. e., so much on or off), and probably they are absolutely influenced by them to some extent. Competition may compel the local buyer to pay a better price than the futures seem to warrant, but the small-town dealer is generally not so well informed as the large buyer of the actual character of the connection between spots and futures, and the producer may not fully appreciate the apparent tendency of the future prices to fall short of parity with spot prices. Under these conditions the price received by the producer, who has actual cotton to sell in the spot market, would logically seem to be unfavorably affected.

THE VOLUME OF FUTURE TRADING AND OF DELIVERIES.

The following statement shows for specified years the volume of trading in cotton futures on the American cotton exchanges:

Exchange.	1918–19	1919–20	1920–21	1921–22
	Bales.	*Bales.*	*Bales.*	*Bales.*
New York Cotton Exchange	73,159,800	73,333,800	67,758,600	78,361,700
New Orleans Cotton Exchange	34,100,000	49,148,700	34,509,500	40,701,700
American Cotton Exchange (New York City)		490,910	2,165,850	5,572,410
Total	107,259,800	122,972,910	104,433,950	124,635,810
Total United States crop [1]	11,906,480	11,325,532	13,270,970	7,977,778

[1] Running bales, counting round as half bales, as reported by the Bureau of the Census, "Cotton Production in the United States—Crop of 1921," p. 2.

The total volume of future trading on the three exchanges ranged (in the four-year period 1918–1922) from 104,433,950 bales in 1920–21 to 124,635,810 bales in 1921–22. The statement clearly shows that the New York market is the one most frequently used for trading in futures.

The following statement shows the volume of deliveries on future contracts on the New Orleans Cotton Exchange and on the two cotton exchanges at New York:

Exchange.	1919–20	1920–21	1921–22
	Bales.	*Bales.*	*Bales.*
New York Cotton Exchange	84,000	265,900	546,800
New Orleans Cotton Exchange	36,100	112,100	101,400
American Cotton and Grain Exchange	350	1,300	590
Total	120,450	379,300	648,790

As shown by the statement, the quantity of cotton delivered on future contracts at New York and New Orleans ranged (in the three-year period 1919–1922) from 120,450 bales in 1919–20 to 648,790 bales in 1921–22. The volume of deliveries at New York greatly exceeded those at New Orleans.

Mr. SMITH. Mr. President, my colleague [Mr. DIAL] has been discussing this morning a proposed amendment to the cotton futures act. I believe the RECORD will disclose the fact that I introduced the original bill that ultimately was amended and finally became what is now the cotton futures act. From time to time I have offered and had adopted by the Senate certain amendments modifying that law as experience in its administration and the purposes for which it was passed were made manifest, and the lines on which those purposes might be accomplished were indicated.

I am not going to take the time to-day to make extended remarks about this law. I know that the matter is so technical, in spite of the fact that it deals with a raw material from the farm, that even those on the floor do not understand the market processes. It is sufficient for me to say just now that I do not want the impression to go abroad——

Mr. DIAL. Mr. President——

The PRESIDING OFFICER (Mr. MOSES in the chair). Does the Senator from South Carolina yield to his colleague?

Mr. SMITH. I do.

Mr. DIAL. I made no criticism of my colleague. I stated in my speech that the framers of this law deserve great credit, not only in the South but everywhere in the United States. It improved the old custom wonderfully. I am not criticizing the law. I know that they did all they could at that time; but the exchange does not carry out the law.

Mr. SMITH. Mr. President, I just want to state that even under the present form of the law, when the facts are divulged, I do not consider the present law one-sided; but all of that I shall go into at the proper time and place. This law in its operation, though I believe there are certain amendments that would have a tendency to enable those who buy to be more certain as to delivery, is not the primary cause, nor perhaps the greatest cause, for the present condition in the cotton market. It is not the nature of the cotton that they sell, but it is the fact of their power of unlimited short selling. I think I shall be able to convince the Senate when this matter comes before it that in the 10 grades that are now admissible to be delivered under the contract, according to the investigations of the department, there is no appreciable difference at all in the yarn and in the cloth made from the so-called different grades. I think the manufacturers of cotton goods of this country will substantiate that statement; and the difference in price is purely an arbitrary one, of course, for the benefit of those who ultimately consume the cotton.

I just wanted to rise at this time to say that at the proper time I will undertake to make as clear a statement as I can make as to the present operation of the law. I hope to put samples on my desk from the grades now admitted under contract, with the same length of staple, and prove that cloth made of cotton from the lowest to the highest grade is identically the same, and the yarn is the same. The only difference in the grades is the amount of foreign matter incident to conversion, and that is easily calculated. So that a mill buying a basis middling, and getting some of all grades, or any one of the grades, can make the same yarn if the cotton is of the same length of staple. I shall undertake to show what was demonstrated by Government experiment under an appropriation made in response to a motion of mine, which I think was $50,000, when the Government took every grade of cotton, from the lowest to the highest, and spun it into the same count of yarn, under the same conditions, and tested its tensile strength here in the department of weights and measures; then bleached it and compared its reaction to the bleaching process; then wove it into cloth, both brown domestic and bleached, bleaching both of the cloths after they were made from the yarn; then tested under the experts as to the difference in the cloths made from cotton of the same lengths of staple, regardless of grade. The result of the experiment was that the cloths were shown to be identically the same. So that low middling, the lowest grade delivered now, and middling fair, the highest grade delivered, made identically the same cloth and the same yarn. I want to demonstrate, by keeping up these experiments, that the whole South has been bunkoed, not by the New York exchange alone—though God knows they did enough—but by an arbitrary fixation of a difference that does not exist, and would not stand the test of a constructive investigation by the Department of Agriculture.

A mill may seek to buy basis middling, but receive every grade, with the same length of staple, from low middling to middling fair, and it will make identically the same yarn and identically the same cloth with all the grades.

Mr. RANSDELL. It can do that on specific as well as on future contracts.

Mr. SMITH. It can do it on specific as well as on future contracts. If I were to buy a contract in New York, basis middling, and the next day served notice that I would demand specific fulfillment of my contract, and they should deliver me 10 bales of each grade with the same length of staple, I could take it into my mill and the yarn and the cloth produced from all those grades would be identically the same.

Mr. DIAL. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Carolina yield to his colleague?

Mr. SMITH. I yield.

Mr. DIAL. Did I understand the Senator to say that there would be the same waste in each grade?

Mr. SMITH. No; I say that by a series of experiments we have made there is shown to be a difference; but it is very slight. They make a difference between middling and low middling of as much as $10 to $15 a bale, when, according to experiments in the department, the waste in conversion was about 4 per cent greater in one grade than in the other.

Mr. FLETCHER. Permit me to ask the Senator this question: If the low middling and the middling fair graded make the same kind of cloth, why should the spinner buy the middling fair at all?

Mr. SMITH. In the trade the short cotton is known as Upland. You could get from seven-eighths inch up to 1⅛ inches; but I said that in my experiments we took cotton of a uniform length of staple, which has been emphasized more in the last year than ever before. A mill will buy to-day low middling 1 inch as readily as they will buy middling fair 1 inch. Of course there is an arbitrary difference in the price by virtue of the color, but they are getting away from that in their increased knowl-

edge of cotton. When they staple their cotton and find that it is a uniform inch staple they have little regard to the color. Of course they have some regard to the foreign matter, because the leaves and the trash in it can not all be eliminated in the combing, and in the twisting any little foreign particle will keep the twist from tightening and cause a break in the yarn. There is a difference there. But if the cotton is picked carefully, the arbitrary difference in coloring has nothing to do with it, and the only difference is the small per cent in the form of waste incident to conversion. When we have experimented sufficiently to confirm the fact I shall introduce an amendment requiring a delivery of the same length of staple regardless of the grade otherwise.

I would just like to say, in passing, Mr. President, that we get a wrong idea when my colleague and others present as an argument the fact that when I buy a pair of shoes I specify the shoe I want. That is true, because a shoe is manufactured according to a rule; but when you want to buy the hide out of which the shoe is made you would find that was not manufactured, and you can not definitely and specifically determine whether the hide is a calf hide or a cow hide, or a bull hide, or 1 year old or 8 years old. You buy the hide and manipulate it and make the shoe. You can not put that into the same classification in which you put the finished article; but once you have them in your hands, you can make a good shoe out of a cowhide and you can make a good shoe out of calfskin.

The same illustration applies to lumber. When I manufacture lumber I class it, but when I buy timber I do not. We can make No. 1 and No. 2 out of the same tree. That is the radical difference. When you are buying what nature makes you can not buy according to a fixed rule, but when you buy what man makes you will find that he makes it according to a rule and makes it in quantity. That is the difference.

I want to say, Mr. President, before I take my seat, that we have before the Committee on Agriculture and Forestry a bill looking toward the temporary relief of the farmer by the Government, assuming temporarily the office of a unified buyer, acknowledging the fact that the manufacturing capital of this country exists under organized form, keeping prices up, even though they have to curtail production, while the producer of the raw material is ruined in every department of agriculture.

It is proposed in the bill now before the Committee on Agriculture and Forestry that the Government shall go in and take the place of a unified buyer and seller until they can raise the price of wheat to where the wheat dollar will be on a parity with the manufacturer's dollar; until the farmers of this country can so organize themselves that they may name the price of their products, and when the freight is high add the freight, and when farm labor is high add farm labor; in a word, add the cost of their production in the selling price and pass on to others what is necessary to make others pay what the farmers are giving. If that can be accomplished, their condition will be better than it is now.

This is an age of organization. The logic of events spells organization. The radio, the telegraph, the telephone, our method of rapid transportation of commodities have obliterated time and space, and made it possible for aggregated capital and brains to control the markets of the world. I challenge any Senator on this floor to go into any store in the city of Washington and put his hand on any article of ordinary commerce that is not made and controlled by an organized trust, or an organized productive agency, fixing the price and the amount of the commodity that will be put on the market.

What we need to-day is not an effort to regulate the other man's business, but to give the farmers of this country the same chance to regulate their business, and make it possible through our financial system to recognize that their methods of production differ from those of the artificial producer, namely, the manufacturer, and accommodate them with a system of finance that will adequately meet the peculiar conditions of their production and give them the same chance that others have to use the money until they have disposed of their products.

Let us stop to consider that a manufacturer makes a crop every day and disposes of that crop every day, and controls that crop, both as to quality and quantity. He can curtail at his pleasure, or he can increase at his pleasure, while the farmer, when he has invested in fertilizer and in the preparation of his soil, and planted his seed, loses control both of quantity and quality, and has to wait for 6 or 8 or 9 months to produce at one time throughout America a product that is to last for the next 12 months.

It has been said that the farmer needs 12 months' credit, that it takes him 12 months to turn over his investment. It takes him 24 months to turn it over; 12 months to make the crop and 12 months to dispose of it. We should devote ourselves to the fundamental question of enabling the agricultural interests of this country so to organize themselves as to meet the organized prices of those who manufacture.

Mr. DIAL. Mr. President, I would like to ask the Senator a question before he takes his seat. We are trying to get an amendment to the cotton futures contract law. The Federal Trade Commission still has this matter under advisement. As I understand, the 10 tenderable grades are enumerated in the law.

Mr. SMITH. They are.

Mr. DIAL. If there is no appreciable difference between some of these grades, then would it or not be advisable to eliminate them from the bill? Would that be practicable? I am trying to get at a solution of the question.

Mr. SMITH. I want to suggest to my colleague the following amendment, that no grades of cotton shall be tendered that are not uniform in staple. I think that would end the whole difficulty. Provide that the 10 grades that are now tenderable shall be classified according to staple.

Mr. DIAL. I hope we can amend the law in some way to give relief.

Mr. RANSDELL. Mr. President, I do not intend to discuss this question at length now, but, like the two Senators who have just addressed the Senate, promise that later on, if I can get an audience, I will discuss it pretty fully. It is an interesting subject.

One of the greatest men in this country, the late Chief Justice Edward D. White, discussed this subject very fully in the Senate in July, 1892, nearly 32 years ago, when he made one of the most remarkable speeches ever delivered on this floor. This subject of dealing on cotton exchanges has been discussed a great many times since then, Mr. President and Senators, and I predict it is going to be discussed a great many times in the next 32 years.

Mr. CARAWAY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Arkansas?

Mr. RANSDELL. I will yield in a moment. I further predict that Congress is not going to destroy the cotton exchanges of the Union. We may regulate them. They should be regulated whenever they do anything wrong, but I do not think we should destroy them, and, as I understand, the bill proposed by the Senator from South Carolina would destroy them. I now yield to the Senator from Arkansas.

Mr. CARAWAY. All I was going to say to the Senator from Louisiana was this: I have a bill pending before the Committee on Agriculture and Forestry. If he will help me to have it reported, we will put an end to all the necessity for this talk here and save much valuable time and be of real help to the farmers.

Mr. RANSDELL. I shall be glad to give careful consideration to the Senator's bill. I can not make him any promise until I have digested it better.

Mr. CARAWAY. The Senator promised to vote against it some time ago, but I thought perhaps he might have changed his mind.

Mr. RANSDELL. I probably would give the same promise after I had examined it more closely.

Mr. President and Senators, this question was up in the last Congress. The Senator from South Carolina [Mr. DIAL] presented it very forcibly to the Committee on Agriculture and Forestry. He insisted upon a report on his bill, and finally got a report on the calendar day of July 31, 1922—a unanimous report against the bill. It is very brief, and I ask to have it printed in 8-point type as a part of my remarks.

The PRESIDING OFFICER. Is there objection? But the Chair must remind the Senator from Louisiana that under the regulations adopted by the Joint Committee on Printing it may not be printed in 8-point type.

Mr. RANSDELL. If it is against the rule, of course, I do not ask it.

The PRESIDING OFFICER. Without objection, the report will be printed in the RECORD as a part of the Senator's remarks.

The report is as follows:

[Senate Report No. 841, Sixty-seventh Congress, second session.]

TO AMEND SECTION 5 OF THE COTTON FUTURES ACT.

Mr. RANSDELL, from the Committee on Agriculture and Forestry, submitted the following adverse report to accompany Senate bills 385 and 3146:

The Committee on Agriculture and Forestry, to which was referred the bills (S. 385 and S. 3146) to amend section 5 of the cotton futures act, approved August 11, 1916, as amended, having carefully considered the bills, respectfully reports them back with an unfavorable recommendation. Both bills are attached hereto and made part hereof.

These bills have a common authorship, S. 3146 being in the nature of a substitute for S. 385, and broadly stated are intended to revolutionize the method of trading in cotton for future delivery as now conducted under the supervision of the United States Department of Agriculture.

Your committee wishes to emphasize the fact that with the solitary exception of their author, not a witness appeared in support of these bills from the time the hearings started on Friday, January 20, until they closed on Friday, June 2, although ample opportunity was afforded everyone interested to be heard.

In striking contrast with this showing, some of the most representative planters, spot-cotton merchants, exporters, and bankers from the cotton-producing States either appeared in person or notified the committee in writing of their unalterable opposition to these bills. Resolutions were received from the spot-cotton exchanges located throughout the South, whose members were no less emphatic than the witnesses for the New Orleans Cotton Exchange in opposition to these bills, or to any material change in the future contract now operating under the supervision of the Secretary of Agriculture. And finally, representatives from the Department of Agriculture, which is primarily concerned with the welfare of the small cotton farmer, appeared before the committee and placed the stamp of the unqualified disapproval of the Department of Agriculture on S. 385 and S. 3146.

The evidence adduced by the committee developed that the contract delivery system as conducted on the New Orleans Cotton Exchange consists of the buying and selling of cotton for future delivery under the United States cotton futures act, as amended March 4, 1919, and regulations of the Secretary of Agriculture pursuant thereto.

The contracts are known as section 5 contracts, as that section of the United States cotton futures act and the regulations of the Secretary of Agriculture constitute the limitations thereof. These provide that—

All contracts made for future delivery on any exchange, board of trade, or similar institution or place of business not in conformity with the United States cotton futures act are subject to a tax of 2 cents per pound;

The contract must specify the basis grade of the cotton involved, which shall be one of the 10 grades for which standards are established by the Secretary of Agriculture; middling shall be deemed the basis grade if no other grade be specified in the contract;

All cotton dealt with shall be of or within the grades specified by the Secretary of Agriculture;

Cotton delivered on such contracts above or below the basis grade must be settled for at actual commercial differences above or below the contract price for the basis grade;

No cotton shall be delivered that is below low middling or that is reduced below the value of low middling because of defects, etc., and is of less than seven-eighths of an inch in length of staple;

Tenders on contracts must be the full number of bales involved or the equivalent weight thereof, and the person making the tender shall give written notice five business days before delivery to the receiver, and in advance of final settlement must furnish the receiver a written notice or certificate stating the grade of each individual bale and by means of numbers identifying each bale with its grade;

All cotton delivered must be classed in accordance with the classification, made under the regulations of the Secretary of Agriculture, by officers of the Government designated by the Secretary for that purpose.

Under the authority vested in it the Department of Agriculture has standardized spinnable cotton tenderable on contracts into 10 grades, and subject to the above regulations cotton tendered on future delivery contracts is inspected and classed by Government officials who issue certificates therefor; in other words, under the law the Government becomes a party to the final settlement of the contracts, insuring the honesty, correctness, and uniformity of such deliveries.

The author of S. 3146 says frankly that both the old custom, under which future trading in cotton was developed, and the present statute "have always been wrong," and in lieu of the present law and the regulations promulgated thereunder by the Secretary of Agriculture he would divide 9 grades into 3 grades, to wit, A, B, and C, with 3 grades in each class, and make the middle class the basis, with a discount for a grade below and a premium for a grade above. He can see no objection whatever to this proposition which limits the tender of the seller from 10 grades to 3 in a given contract; he would require the specific grade to be specified at the time the contract is made; and, finally, he would allow the purchaser and the seller of a contract to each select half of the quantity; but in order to avert the possibility of a corner, either up or down, let them divide each half equally in 2 or even 3 grades.

As has been stated, with the exception of the author, not a solitary advocate of this plan appeared to urge its substitution for the existing law. It was pointed out, however, that the present law permits the trading in specific grade contracts under section 10, although such contracts are never made across the future ring and such contracts are stronger than those provided for in S. 3146.

With the exception of the author, every witness heard orally and every communication received by mail from representative cotton interests condemned that feature of S. 3146 which would reduce the number of grades allowed in the future contract from 10 to 3. The spot merchants who deal directly with the growers pointed out that their purchases necessarily covered a wide range, embracing some 20 or more grades known to the spot trade, and if they were compelled under this bill when selling futures to insure these purchases, to be limited in those future contracts to only 2 or 3 grades, then the future contract used as a legitimate hedge or insurance would cease to function.

But by far the more vigorous attack upon the proposition to reduce the number of grades and revise the form of contract came from representatives of the United States Department of Agriculture.

It was pointed out that the present law calls for one form of contract, which is the basis of all transactions, and provides a continuous market that the spot-cotton trade argues from. It was problematical if the volume of business could be reduced and still provide a continuous market; yet the bill under consideration proposed to divide the present form of contract up into three. If this were done, then the volume of business would be cut into fractions of its present size, or there would be a tremendous increase in business to provide the same volume of business in any one of these three forms of contract. The opinion of the departmental spokesman was that the trade would not adopt three forms of contract; and the fact was stressed that the adoption of any form of contract which would reduce the number of tenderable grades would vastly increase the number of bales annually left on the hands of the "aggregate producer." As an illustration of the awful menace threatening the smaller farmer which is involved in any plan which would reduce the number of grades tenderable upon future contracts the department pointed out that in the comparatively recent past, when the Senate called upon the Census Bureau for figures showing the quantity of spinnable cotton on hand, it was shown that there was in storage in the warehouses of the country cotton that was untenderable on future contracts to the extent of 24 per cent of the total.

The same unanimity of adverse opinion was expressed by all branches of the cotton trade upon the third and remaining feature of the bill, which provides that the purchaser and the seller of a contract each select half of the quantity involved in the contract. The effect of this arrangement, it was contended, would be to restrict the contract to a point where the spot-cotton merchant could not make use of it in connection with his business, and trading in futures as a hedge or insurance for legitimate business transactions would be automatically discontinued.

As disclosed by their titles, neither S. 385 nor S. 3146 were intended to suppress the two exchanges in this country where future contracts in cotton are dealt in, irrespective of what their ultimate effect upon the trade might be. But in view of the very general interest that has recently been manifested in the subject of future trading in agricultural products, and because of the attention that has been bestowed upon certain phases of the question by the judicial as well as the legislative branch of the Government, the committee decided to conduct a broad and comprehensive inquiry in the operation of the cotton futures act as amended.

It is believed that the hearings, embracing a volume of 175 pages, will prove a valuable and timely contribution to the information on a subject that promises to engage the attention of Congress for some time to come.

The witnesses from the various cotton States, and who were very largely engaged in the spot-cotton business, are recognized throughout the trade as qualified to speak for the interests they represented.

The communications from the New Orleans Cotton Exchange dealing with the other phase of the cotton trade are from officials of that institution whose long and distinguished service in the cause of future trading have made their names household words throughout the civilized world wherever cotton future contracts are traded in.

The committee has also deemed it advisable to include in the hearings, for the convenience of those who wish to study this question, a summary of the exhaustive discussion of the Comer amendment to the cotton futures act on the floor of the Senate Friday, April 30, 1920, by Senator JOSEPH E. RANSDELL, of Louisiana, together with the speech of Hon. Edward D. White, of Louisiana (subsequently Chief Justice of the Supreme Court of the United States), in the Senate of the United States, Thursday, July 21, and Friday, July 22, 1892.

[S. 385, Sixty-seventh Congress, first session. By Senator DIAL.]

A bill to amend section 5 of the United States cotton futures act, approved August 11, 1916, as amended.

Be it enacted, etc., That section 5 of the United States cotton futures act, approved August 11, 1916, as amended, be, and the same hereby is, amended as follows:

In the fourth subdivision of section 5 of said act insert "(a)" after "fourth," and before "provide," and add at the end of such fourth subdivision:

"(b) Provide that unless cotton in the basic grade be tendered in settlement of such contract, the buyer shall have the right to demand that one-half of the amount deliverable under the contract shall be delivered in equal quantity in two grades, to be specified by him, and that the seller shall have the right to tender one-half of the amount deliverable under the contract in equal quantity in two grades to be specified by such seller."

The foregoing amendments shall be effective on and after the thirtieth day after the approval of this amendatory act, but nothing herein shall be construed as applicable to contracts entered into prior to the effective date of this amendatory act or to affect rights acquired or powers exercised thereunder.

[S. 3146, Sixty-seventh Congress, second session. By Senator DIAL.]

A bill to amend section 5 of the United States cotton futures act.

Be it enacted, etc., That the second subdivision of section 5 of the United States cotton futures act, approved August 11, 1916, as amended, is amended to read as follows:

"Second. (a) Specify as the class of the contract one of the following classes:

"Class A, which shall include only middling fair, strict good middling, good middling, and strict middling grades.

"Class B, which shall include only strict middling, middling, strict low middling, and good middling yellow tinged grades.

"Class C, which shall include only strict low middling, low middling, strict middling yellow tinged, and good middling yellow stained grades.

"(b) Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary of Agriculture, and which shall be one of the grades included within a class in paragraph (a) of this subdivision; the price per pound at which the cotton of such basis grade is contracted to be bought or sold; the date when the purchase or sale was made; and the month or months in which the contract is to be fulfilled or settled.

"(c) If no other class is specified in the contract, or in the memorandum evidencing the same, the contract shall be deemed a class B contract.

"(d) If no other basis grade be specified in the contract, or in the memorandum evidencing the same, good middling shall be deemed the basis grade incorporated into a class A contract, middling shall be deemed the basis grade incorporated into a class B contract, and low middling shall be deemed the basis grade incorporated into a class C contract."

SEC. 2. That the third subdivision of section 5 of such act is amended to read as follows:

"Third. Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary of Agriculture, and of or within the grades included within the class so specified or incorporated as the class of the contract, and that cotton of any other grade or grades shall not be dealt with therein nor delivered thereunder."

SEC. 3. That the fifth subdivision of section 5 of such act, as amended, is amended to read as follows:

"Fifth. Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of strict middling in the case of a class A contract, strict low middling in the case of a class B contract, or low middling in the case of a class C contract, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple or of immature staple, or cotton that is 'gin cut' or reginned, or cotton that is 'repacked' or 'false packed' or 'mixed packed' or 'water packed,' shall not be delivered on, under, or in settlement of such contract."

SEC. 4. That the second paragraph of the seventh subdivision of section 5 of such act, as amended, is amended to read as follows:

"The provisions of the third, fourth, fifth, sixth, and seventh subdivisions of this section shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase 'subject to United States cotton futures act, section 5, class A,' if the contract is a class A contract, or the phrase 'subject to United States cotton futures act, section 5, class B,' if the contract is a class B contract, or the phrase 'subject to United States cotton futures act, section 5, class C,' if the contract is a class C contract."

SEC. 5. That the provisions of this act shall be effective on and after the thirtieth day after its passage, but such provisions shall not be construed as applicable to nor as affecting any right, power, privilege, or immunity under any contract entered into prior to such day.

Mr. DIAL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from South Carolina?

Mr. RANSDELL. I yield.

Mr. DIAL. I would like to ask my fair and able friend from Louisiana to state the facts as he goes along and not to forget them. The reason why the committee reported my bill unfavorably during the last session was because I had introduced the new measure which is pending now. The bill to which the report refers was the one that was antiquated, and the one supplanted by the new bill. When the committee made no report I asked on the floor of the Senate that they make a favorable report if they would—if a majority of them were favorable to it; if not, to report it without recommendation; and if they would not do that, to report it unfavorably. I thought I was so liberal that they would certainly report it without recommendation until my distinguished friend from Louisiana, on behalf of the committee, reported it unfavorably.

I submit that is not a fair statement of the action of the committee.

Mr. RANSDELL. The report speaks for itself. We had before us two bills introduced by the Senator from South Carolina, as I understood it, one of them being the identical bill that is now before us.

Mr. DIAL. That is correct.

Mr. RANSDELL. Possibly the Senator has changed that one, but I do not think so.

Mr. DIAL. No; I have not changed it.

Mr. RANSDELL. I thought it was before the committee at that time and was made a part of the report. The report speaks for itself and will show which bill was before the committee.

Mr. DIAL. Most of the report had reference to the bill which I had withdrawn, and there is a little bit of it that refers to the particular bill now before us.

Mr. RANSDELL. It was a report on the two bills.

In the early part of last year the present chairman of the Committee on Agriculture and Forestry, the senior Senator from Nebraska [Mr. NORRIS], knowing there was a great deal of interest in the subject of cotton futures and cotton exchanges, introduced and had passed a resolution requiring the Federal Trade Commission to study the whole subject and make a report upon it. I believe that the Senator from South Carolina [Mr. DIAL] asked some report also from the Federal Trade Commission.

Mr. DIAL. I did the year before that.

Mr. RANSDELL. But the Senator from Nebraska made the request, as I have stated. My understanding is that last fall, some time in November, as I am informed, the Federal Trade Commission gave very elaborate hearings on the subject. Quite a number of witnesses, so I am informed—I was not there—from various portions of the United States attended the hearings and gave elaborate testimony pro and con, I assume, on the measure. Later on the senior Senator from South Carolina [Mr. SMITH], I am informed, appeared before the Federal Trade Commission and argued about one hour on certain conditions in the cotton business. The Federal Trade Commission has those hearings and all that testimony before it. I have no right to speak for it, but I assume it will make a report in the near future.

I can say to the junior Senator from South Carolina that one of the reasons, in my opinion, why the Committee on Agriculture and Forestry of the Senate has not reported on his bill is that we are waiting to get that report from the Federal Trade Commission. The committee did not take additional testimony at this time, because last session the identical measure was before us and we then examined the question very thoroughly, summoned many witnesses, and went into it as carefully as we could. We did not therefore think it necessary to go into an examination of additional witnesses in regard to it at this session. We are proceeding cautiously and I think very fairly.

The chairman of the committee, the Senator from Nebraska [Mr. NORRIS], addressed a letter just a few days ago to the Secretary of Agriculture, Hon. Henry C. Wallace, sending him a copy of the Dial cotton futures contract bill and asking his views officially in regard to it.

On the 24th of last month Secretary Wallace wrote a letter to Senator NORRIS, giving his views on this bill. I shall be glad to have this letter from the Secretary of Agriculture published as a part of my remarks, and I ask that that may be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letter referred to is as follows:

DEPARTMENT OF AGRICULTURE,
Washington, January 24, 1924.

Hon. G. W. NORRIS,
Chairman Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR: In compliance with the request of the clerk of your committee I submit herewith an analysis of and the department's opinion on S. 386, entitled "A bill to amend section 5 of the United States cotton futures act, approved August 11, 1916, as amended."

In this bill the whole list of tenderable grades of cotton is divided into three classes, namely, A, B, and C, each one being represented by a separate and independent contract. Each of these contracts is limited to four grades of cotton. The effect of the bill, therefore, would be to break up the field of future trading in cotton into three parts instead of having the trading done under one form of contract, as under existing law.

The bill provides that one-third of the number of bales involved in each contract shall be filled through the delivery of the basis grade specified in the contract and that two-thirds shall be filled either in the basis grade or in one of the three other grades permitted to be delivered. The effect of this amendment would be drastic, as each contract must be fulfilled through the delivery of cotton of the basis grade and one other grade, the amounts varying from one-third to all in the basis grade and from nothing to two-thirds of the amount in the other grade. This would make it more difficult to deliver cotton in settlement of such a future contract than under existing law. At the present time delivery may be made in any quantity from any one of the 15 grades.

The bill provides that only 10 grades of cotton mentioned by name shall be deliverable in settlement of future contracts, and in this respect it fails to take into consideration the changes made in the United States official cotton standards which became effective on August 1, 1923. Should the measure become a law in its present form, five grades, namely, good middling spotted, strict middling spotted, middling spotted, good middling light stained, and good middling gray, which now are recognized as deliverable, will not have such recognition. Cotton of these grades would either be denied the right of delivery or would be classified roughly into one of the 10 deliverable grades. Either alternative is objectionable and should be avoided as far as possible.

It is the department's opinion that cotton future exchanges should perform two important functions, namely, accurate quotations of the price of cotton, and hedging facilities, or price insurance against market fluctuations. On the proper performance of these two functions the economic value of cotton future exchanges must rest.

The question naturally arises, then, will the bill under consideration aid in accomplishing either or both of these ends? It is believed that neither of these useful purposes would be met. On the other hand, it seems reasonably clear that the bill would still further complicate the methods of trading in cotton, and that it would largely increase the expense of circulating cotton future quotations; also, that it might largely decrease the dependability of such future quotations and thereby destroy the ability to make hedges. The bill would make it more difficult to deliver cotton in settlement of future contracts and thus at times have a tendency toward corners in the market, as well as to cause the futures market to lend itself more readily to manipulations.

In view of these reasons it is believed that this bill would not be advantageous to the cotton industry and therefore should not be enacted into law.

Sincerely yours, HENRY C. WALLACE, *Secretary.*

Mr. DIAL. Will the Senator be kind enough to publish my answer as a part of his remarks?

Mr. RANSDELL. No; I will not do that, because the Senator published his answer to the Secretary's letter the other day and did not have the fairness to publish the Wallace letter to the Senator from Nebraska in advance of his answer to it.

Mr. DIAL. There was no objection to publishing it.

Mr. RANSDELL. Is not that a fact, may I ask the Senator? He actually put in the RECORD on the 8th day of last month, and I have it right here before me, his reply to the letter of this apparently disinterested man, Secetary Wallace, but he did not publish Secretary Wallace's side of it. He published only one side of it.

Mr. CARAWAY. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Arkansas?

Mr. RANSDELL. I yield.

Mr. CARAWAY. What does the Senator imagine the Secretary of Agriculture knows about cotton? It took him two days to find out whether he could milk a cow more quickly than another Senator in this body.

Mr. RANSDELL. He may not know much about it, but——

Mr. CARAWAY. Then the Senator puts him to pass upon cotton, which he never saw.

Mr. RANSDELL. He is supposed to have very good experts in his department. I will say in behalf of the Secretary of Agriculture that he had, or at least the committee had, before it two of those experts, recognized in all branches of the cotton industry as fair and able men, and we examined them very thoroughly. I believe the Senator from Arkansas was there and cross-examined them somewhat.

Mr. CARAWAY. But, if the Senator will permit me——

Mr. RANSDELL. Let me answer the Senator and then I shall be glad to yield further. They went into a very full discussion of the whole question of cotton exchanges in this country and abroad. I imagine that the Secretary of Agriculture, who can not be supposed to know everything, though he is quite a bright man, had the advice of those experts in getting up his reply to the Senator fom Nebraska. I am glad now to yield further to the Senator from Arkansas.

Mr. CARAWAY. I judge he must have had that advice from some experts, or else he would not have been able to reply at all.

Mr. RANSDELL. That may be true.

Mr. CARAWAY. But let me ask the Senator a question. Did the Senator ever see an expert who was not on the side of the party who brought him to the discussion?

Mr. RANSDELL. I have had no experience with experts, I will say to the Senator.

Mr. CARAWAY. May I suggest to the Senator that a good many of those who appeared before the committee were from Louisiana, from the city of New Orleans. They were all remarkably well agreed that you could make more cotton on an exchange than you could in all the cotton fields of the South, and they evidently demonstrated that there was a great deal more money made in it in that way.

If the Senator will pardon me a moment, there is not a big plantation in Louisiana, I am sure, nor is there one in Arkansas that has not at some time, under a foreclosure proceeding, gone into the possession of some fellow who did not make the cotton but bought it on the exchange, and the man who actually raised the cotton went into bankruptcy, and as long as the exchange continues to exist that is where the profit lies.

Mr. RANSDELL. I do not know what constitutes an expert, but I remember very distinctly that there appeared a young man from Little Rock, Ark. I have forgotten his name.

Mr. CARAWAY. I will tell the Senator his name.

Mr. RANSDELL. But he impressed me as one of the strongest men intellectually that I had ever met. He testified before the committee and gave a very clear explanation of the whole subject. He certainly impressed me as being a truthful, high-grade man, such as Arkansas produces in very large numbers, I would like to say to the Senator.

Mr. CARAWAY. Of course I thoroughly indorse the last statement the Senator made. The gentleman who appeared before the committee as an expert, to whom the Senator refers, was Mr. Sidney West. Was not that the gentleman?

Mr. RANSDELL. I think that was his name.

Mr. CARAWAY. He never saw a cotton field in his life. He probably studied cotton in the cotton exchange all his business days and therefore was an authority on cotton growing, and a mighty fine man.

Mr. RANSDELL. I do not know anything about that. I think most of the great men in Arkansas started their lives on the farm. Perhaps Mr. West did not.

Mr. CARAWAY. He did not start in the State of Arkansas. He came up from Louisiana.

Mr. DIAL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from South Carolina?

Mr. RANSDELL. I yield.

Mr. DIAL. I would like to ask the Senator if he does not think the present law improves the old custom greatly?

Mr. RANSDELL. I am inclined to think that the present law, which, I will say, was passed after discussion for several years——

Mr. DIAL. Thirty years.

Mr. RANSDELL. Led in the House of Representatives by that very distinguished citizen of South Carolina, Hon. Asbury Lever, and in the Senate by the Senator's present very able colleague, Senator ELLISON D. SMITH, did correct some bad features of the old methods on the cotton exchanges.

Mr. DIAL. The cotton customs.

Mr. RANSDELL. We listened to advice on that subject very patiently for several years, I will say to the Senator, and everything pro and con was said on the subject. It was discussed in very great detail and the changes suggested at that

time as helpful were made in the law. We corrected at that time the existing evils, if they were evils, and I will say to the Senator that I thought there were some things that ought to be corrected at that time, and I believe we did all that could be done along that line.

Mr. DIAL. The Senator favored that bill?

Mr. RANSDELL. I did.

Mr. DIAL. It did improve the customs wonderfully. Does the Senator happen to know that Congressman Lever thinks the present law ought to be amended along the line I have suggested now?

Mr. RANSDELL. I had not heard that. It may be true.

Mr. DIAL. He is a very distinguished man.

Mr. RANSDELL. Yes; he is a very distinguished man, and if he thinks it ought to be changed along the line the Senator suggests, I would like to have his views on the matter. I have very high regard for Mr. Lever.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Utah?

Mr. RANSDELL. I yield.

Mr. KING. I am in the position of the innocent bystander in this very pleasant controversy between my distinguished friends from the South.

Mr. NORRIS. Then the Senator is liable to get hurt.

Mr. KING. I was about to observe that the innocent bystander is the man who sometimes gets hurt. I rose, however, to make an inquiry of the Senator. I understood him to state, or rather I deduced from his statement, the idea that the cotton exchanges throughout the United States have in the past been guilty of some transgressions which have affected injuriously the farmers .

Mr. RANSDELL. I did not say that, if the Senator will pardon me. I said some customs had grown up among the exchanges which were thought deleterious to the interests of the farmer, and those customs were changed by positive enactment in what is known as the Smith-Lever law.

Mr. KING. May I say that I have heard statements, I think, upon the floor of the Senate—if not, in the cloakroom—frequently by Senators from the South to the effect that cotton would go up and down a great many points within a few hours to the disadvantage oftentimes—more frequently, let me say—of the farmer.

Mr. RANSDELL. And sometimes to his advantage.

Mr. KING. And that there was gambling upon the cotton exchanges throughout the United States and that the gambling was injurious to the cotton producers. The Senator stated that there had been an investigation, a painstaking investigation, as I understood him, some time ago in regard to the cotton exchanges. What I wanted to ask was if the Senator believes that the cotton exchanges and the grain exchanges and the New York Stock Exchange and other exchanges throughout the United States in the long run are beneficial to the farmers and to producers, or are they not in the long run harmful to them, and do they not enable a few individuals who, as the Senator from Arkansas [Mr. CARAWAY] just said, know nothing about farming or about cotton growing, to become enriched beyond the dreams of avarice?

May I say to the Senator that I have a resolution pending here now asking for an investigation of the stock exchanges and all other exchanges in the United States, for the reason that I believe that great harm results to the farmers and to the cotton growers and to millions of the American people because of the bad practices, the illegal practices, the fraudulent practices of the various exchanges throughout the United States.

Mr. RANSDELL. I will say, in reply to the Senator, that I have made no investigation of exchanges other than the cotton exchange.

I have investigated the cotton exchanges as thoroughly as I know how; I have assisted in the taking of considerable evidence in regard to cotton exchanges, some of which surely was from disinterested sources, and perhaps some of it from prejudiced sources, and it is my candid opinion, I will say to the Senator, that the cotton exchanges are beneficial to the producers of cotton. The cotton exchanges assist in giving additional markets to the producers. The cotton exchanges are, if you please, the medium of more or less speculation; they are the medium of more or less gambling—not any more so, in my judgment, though, than many other things are the medium of gambling.

Let me say to the Senator that I speak as a practical cotton planter. I am not interested in any way in cotton exchanges, but I am interested in getting a good price for the cotton I produce on my cotton plantation, which is located three hundred and odd miles away from New Orleans, which has the nearest cotton exchange, and I honestly believe that the additional markets and additional purchasers which are furnished by the cotton exchanges enable me to get considerably better prices for my cotton than I would get if I were dependent solely upon the consumers of my cotton, which are the mills of the United States, of Canada, of Japan, and of Europe.

The Senator will bear in mind that cotton is a raw commodity. It is one of those raw materials of which we speak so often. One can not use cotton as such, but is obliged to convert it into cloth of some kind, woven goods or knit goods, or to put it into such material that the human being can use it. The man who produces cotton does not make the finished product. Those who consume the cotton of the South—and that is what we are now talking about—are the owners of the mills of the United States. I am happy to tell you that to-day the cotton mills of the Southern States are manufacturing in bales more than one-half of all the cotton which is manufactured in the United States. Formerly we sold all of our cotton which was manufactured in the United States to New England, and it was manufactured there; but to-day it is being manufactured in the South. Of course, we still sell a great deal of cotton abroad, but to whom do we sell it? To the people who convert it into the finished product.

Again, I say that the cotton exchanges make it possible for a great many men in a speculative way to buy cotton, to deal in cotton, and in that way to increase the price of cotton, in my judgment, very materially at times, though I have no doubt, as has been stated by the Senator, that there are times when the price of cotton is lowered, just as the price of other commodities is lowered, by speculation. It is a speculative business all down the line; but speculation is not confined to cotton or to wheat or to stocks and bonds. The human being is so constituted that he speculates in everything.

Mr. KING. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Utah?

Mr. RANSDELL. I yield to the Senator from Utah.

Mr. KING. In continuation of the suggestion I made a moment ago, may I inquire of the Senator—and I make the inquiry for information—does not he agree with me that the stock exchanges do not decrease and do not increase the production of cotton? The Senator must agree with me that there are a large number of individuals who are engaged in the speculative activities who make enormous fortunes. The Senator must also agree with me that those fortunes come out of the pockets of some one. They come out of the producers of cotton by denying to them the prices to which they are entitled, or they come out of the consumers of cotton. In any event, all of the profits which those speculators make are carried on to the ultimate consumer. Now, I repeat the question which I submitted a moment ago: Does the Senator think that in the long run there is any advantage in having a class of persons who are denominated speculators on the cotton exchange take over these contracts and make fortunes of millions and millions of dollars which must, as I have stated, come out of the farmers who produce the cotton or come out of the people who consume it?

Mr. RANSDELL. No; I do not want to see the speculators in the market make this money, but I again come back to my proposition that a great many of the traders on the cotton exchanges are not speculators. I will say to the Senator from Utah that one of the principal features of the exchange—and I can bring plenty of evidence to substantiate my statement—is that it is used as an insurance agency. It is said that four-fifths of all the contracts which are entered into on the cotton exchange are for the purposes of insurance.

Mr. CARAWAY. Mr. President, may I ask the Senator from Louisiana a question?

Mr. RANSDELL. Let me first answer the question which has been propounded to me by the Senator from Utah [Mr. KING], and then I shall be glad to yield to the Senator from Arkansas.

Senators can readily understand that when a dealer buys a large quantity of cotton the cotton is on the farm, for instance. He is not certain that it is going to be delivered to him, and so he goes into the cotton exchange and buys a contract to insure delivery. He is running a mill, let us say, and needs 12,000 bales of cotton during the season for his mill, 1,000 bales every month for that purpose. He does not wish to buy all of that cotton at one time so he has to make the contract ahead; he must contract months and months in advance for the delivery of certain classes of goods. In order that he may know what his cotton, the raw material, is to cost him, he goes into the contract market and buys for future delivery for the respective months; he contracts for the delivery of the grades that he is going to need. I will say to the Senator that at the same

time he goes into the specific market and contracts for the specific delivery of so many bales, say 1,000 bales, of the particular grade he wants each month.

The same Mr. West, of Arkansas, to whom reference has been made, testified before the committee, as I recall, that there were 9 or 10 insurance contracts entered into for practically every bale of spot cotton. So a great many of the contracts on the cotton exchange are insurance contracts.

Mr. DIAL. Mr. President, will the Senator yield?

Mr. RANSDELL. I am glad to yield to the Senator from South Carolina.

Mr. DIAL. What the Senator has just said is true and very proper; but who insures for the farmer in the meantime? That is the trouble about that matter. If the Senator will allow me further——

Mr. RANSDELL. The Senator has asked me a question; please do not make a speech. I yielded very gladly to the Senator, and will be glad to yield further for a question, but not for the Senator to make a speech.

Mr. DIAL. I merely wish to ask another question, if the Senator will allow me.

Mr. RANSDELL. I will be delighted to have the Senator ask it.

Mr. DIAL. Let me say to the Senator that it took Congress exactly 30 years to pass the present law. The bill was originally introduced in 1884 and did not pass until 1914. So the Senator will appreciate the rapidity with which legislation on this subject is secured. Again, the question being an exceedingly technical one, does not the Senator think that the best solution of it would be for the Senators who represent the cotton-growing States to take some day off and formulate a plan that would benefit the grower? Would the Senator agree to be bound by the result of such a conference?

Mr. RANSDELL. I would be delighted to be bound by anything that would benefit the grower, because, as I have said to the Senator, I have no interest in mills; I have no interest in exchanges; my only interest in this matter is as one of the Senators from an agricultural State and as an agriculturist myself. That is the only business I have at home.

Mr. DIAL. There is no question as to that. I accord the Senator the same rights that I have and the same desires that I have; but I think all Senators who represent States where a bale of cotton is grown ought to get together and agree upon some amendment—or no amendment, for that matter, if you please.

Mr. RANSDELL. I will ask the Senator to put a question if he will.

Mr. DIAL. Would the Senator be bound by the result of a meeting of that kind?

Mr. RANSDELL. I do not know whether I would until I ascertained what the meeting proposed. The Senator succeeded in having a resolution passed through the South Carolina Legislature the other day, and perhaps he would want me to be bound by that; but I do not intend to be bound by anything until I know all about it. The Senator from South Carolina might, at the suggested meeting of Senators from the cotton-producing States, some of whom may not have studied this question at all, show so much more eloquence than the humble Senator from Louisiana that he would persuade them to his way of thinking.

Mr. DIAL. It would be impossible for me to speak more eloquently than does the Senator from Louisiana.

Mr. RANSDELL. We will discuss the question thoroughly on its merits. Let it take the course that all other legislation in Congress takes.

Mr. DIAL. Very well.

Mr. RANSDELL. Mr. President, I was about to quote from the letter of the Secretary of Agriculture and shall now do so. In the concluding paragraph but one in that letter the Secretary of Agriculture, Mr. Wallace, after referring to the bill—and I will publish the entire letter in my remarks—says:

> On the other hand, it seems reasonably clear that the bill would still further complicate methods of trading in cotton, and that it would largely increase the expense of circulating cotton-future quotations; also that it might largely decrease the dependability of such future quotations and thereby destroy the ability to make hedges—

The word "hedges" refers to the insurance which I tried to explain to the Senator from Utah.

> The bill would make it more difficult to deliver cotton in settlement of future contracts, and thus at times have a tendency toward corners in the market, as well as to cause the future market to lend itself more readily to manipulation.

I will say that in my judgment, if we are going to pass the bill of my distinguished friend, the Senator from South Carolina [Mr. DIAL], we ought to go further and absolutely prohibit any dealings of any kind in exchanges throughout the United States, and that, I presume, is the purpose of the bill or of the investigation proposed by the Senator from Utah.

Mr. President, I promised to speak briefly, and I fear I am not keeping my word, because of the questions that have been asked me. I wish now to conclude by reading a letter, the signature to which I will give. It is signed by Mr. Edward S. Butler, president of the New Orleans Cotton Exchange. He is a very high official of that awful organization, in the opinion of some people, known as the New Orleans Cotton Exchange. I ask Senators to listen—and I am going to read this letter myself because I want it to be printed in the RECORD in large type. It is dated February 15; it reached my office this morning. I did not write to Mr. Butler and did not know he was going to write to me, but this letter reached my desk this morning.

> NEW ORLEANS COTTON EXCHANGE,
> *New Orleans, February 15, 1924.*
>
> Hon. JOSEPH E. RANSDELL,
> *United States Senator from Louisiana, Washington, D. C.*
>
> DEAR SIR: Referring to concurrent resolutions of the General Assembly of South Carolina, introduced in the Senate by Senator DIAL, of South Carolina, and published in the CONGRESSIONAL RECORD of February 8, 1924, the position of the South Carolina General Assembly is based on a misunderstanding of the true purpose and intent of the cotton-future contract dealt in on the New Orleans and New York Cotton Exchanges under the United States cotton futures act. There is no discrimination in the cotton-futures contract in favor of sellers and there is no hazard upon buyers. The cotton-futures contract is intended to and does represent practically all of the desirable grades produced in the cotton crop.
>
> The buyer of a contract does not buy nor does he expect to receive any specific grade or grades. He buys cotton of the crop, the same as a buyer of cotton from the farmer, which consists of such grades as the farmer may market. Few or no farmers produce even running cotton or any specific grade; his cotton when marketed may consist of a number of grades and the buyer pays him according to the value of those grades as they may run.

Many of the Senators present have been on cotton farms. They are familiar with the raising of cotton, and they know that the Almighty Ruler of the universe determines the grades of cotton. Exchanges can not determine it. Farmers can not determine it. The seasons determine the grades of cotton. We can not control it by statute or otherwise. No human being can.

> The selection of any particular lot as to grade is a matter of grouping by the buyer after he has accumulated his purchases, for the purpose of meeting specific demands from the mills. Such selection by grades may and generally does consist of parts of the production of a number of producers. The buyer of a cotton-futures contract buys cotton of the growth of the United States of any grade of or within the grades for which standards are established by the Secretary of Agriculture. There is no "uncertainty" or "gambling" on part of the buyer of a cotton-future contract. He knows just what he is doing. He buys cotton, not of any specific grade but just cotton, and expects to receive and pay for it according to the kind the seller is able and willing to tender to him within the limits prescribed by law. He takes that cotton the same as he does when buying from the farmer, with this difference: That he must take what the farmer has to sell without limitation as to grade, or not buy at all, whereas in buying a future contract he has an absolute guaranty, protected by a heavy legal penalty, that he will receive only good sound merchantable cotton and that he will only be required to pay for what he receives, at its market value.

Mr. CARAWAY. Mr. President, may I ask the Senator a question?

Mr. RANSDELL. I shall be very glad to have the Senator do so.

Mr. CARAWAY. As a matter of fact we know it is an absolute fiction that he buys anything but a gambling contract, do we not? The cotton exchange does not expect to deliver, nor does he expect a delivery of actual cotton when he buys, does he?

Mr. RANSDELL. I can not say that he does expect to have an actual delivery in a great many instances.

Mr. CARAWAY. Does he in any instance?

Mr. RANSDELL. Yes; in some instances he does; but as a rule I think, as I explained to the Senator from Utah, the cotton exchange is largely a medium for hedging, for insurance, and in some instances for downright, cold-blooded speculation such as the Senator alludes to and which, personally, I am sorry to see. I think it is one of those evils which I would say are necessary incidents of this kind of business. I never

saw anything in this life that was perfect; and perhaps we can get a more perfect system, but I do not know just how.

Mr. KING. Mr. President——

Mr. RANSDELL. I yield further to the Senator from Utah.

Mr. KING. May I say to the Senator from Louisiana that I have heard it stated many times that there was sold upon the cotton exchanges of the United States from 100 to 1,000 times as much cotton as was actually grown. Obviously that was not the result of proper hedging, but it consisted of gambling contracts. The Senator knows that on the Stock Exchange of New York and on the various exchanges of commodities throughout the United States hundreds of times the actual amount of the product are sold by the gamblers and by the innocent victims who buy.

Mr. RANSDELL. I can not answer that question. I do not know how many times the market has been oversold, but I want to say this to the Senator: If this exchange has a good and legitimate purpose—and my judgment is that it is good and it is legitimate, in the main—the abuse of it should not condemn it. We might pass some law here to prohibit the extreme amount of overselling, as suggested by the senior Senator from South Carolina. I do not think I would have any objection to such a law as that.

Mr. HARRIS. Mr. President——

Mr. RANSDELL. I yield to the Senator from Georgia.

Mr. HARRIS. The Senator from Utah [Mr. KING] spoke of the number of bales of cotton sold by the exchanges. I think they sell about 10 times as much every year as is raised in the South. They sell 90,000,000 bales where they raise 9,000,000.

Mr. RANSDELL. I thank the Senator for that contribution to my speech. I did not know how many bales were sold. I was satisfied that they sold a good many more bales than they raised. I believe, however, that a good deal of that was legitimate hedging, as I have explained, legitimate insurance. Some of it undoubtedly was illegitimate speculation.

Mr. DIAL. Mr. President, the Senator can get the information from the Federal Trade Commission report which I introduced a while ago.

Mr. CARAWAY. Mr. President, may I interrupt the Senator?

Mr. RANSDELL. I yield to the Senator from Arkansas.

Mr. CARAWAY. The Senator could go on the New Orleans exchange now, if he cared to and had enough money, and buy 50,000,000 bales of cotton that would be grown this year, when there is not a seed in the ground, and there is not a man that knows how many acres will be planted, or how many bales will be grown, or how much use there will be for it. Now, can that be anything but gambling?

Mr. RANSDELL. I do not know whether the Senator is stating that correctly or not.

Mr. CARAWAY. Could you not buy all you wanted to if you just put up your margin?

Mr. RANSDELL. I imagine that if you put up your margin you could buy just as much as you could market safely.

Mr. CARAWAY. Up to a thousand million bales.

Mr. RANSDELL. That is probably true. As I have said, there are some evils in this contract, but it has more advantages than evils. I think I can convince any Senator of that who will listen to me, but I am not going to discuss it now. I did not come here to-day prepared to discuss this subject. My friend from South Carolina did not discuss it, and I am not going to do so.

Continuing this letter of Mr. Butler, where I left off, he says:

There is no room under the cotton-future contract for chicanery or evasion. Every delivery is supervised by the official graders of the United States Government, and no delivery can be made without their certificate of grade. There is no uncertainty or hazard in this, and there can be no discrimination of any kind. The law is plain and specific, and any man or set of men who attempts to evade it is punished accordingly.

There can be no question that if the buyer's interests in all articles of trade were as thoroughly and effectively protected as they are in cotton dealt in by future contracts as sold in the New Orleans and New York Cotton Exchanges the work of courts and lawyers throughout the country would be largely reduced.

The cotton-future contract, it is repeated, is intended to and does embrace the entire production of good, desirable cotton (barring descriptions prohibited by law); it does not discriminate in favor of any particular grade or any individual; it is all inclusive, and as such broadens and stabilizes the values; it is governed by supply and demand at home and abroad and reflects conditions which may and do affect either; it affords an instantaneous market for cotton every minute and hour of any business day, and it informs producers, buyers, and sellers of the value of their merchandise, constantly and effectively reaching the remotest village and hamlet of the country. No man, whether he be the vendor of but one or two bales in the country, is kept in ignorance of what his cotton is worth on the markets of the world, and whether it advances or declines he knows it and can govern himself accordingly.

Right there I should like to interject this remark: The senior Senator from South Carolina [Mr. SMITH] spoke of combinations. He spoke of the necessity of the farmers getting together. I should like to see them get together. I should like to see a thorough and complete spirit of cooperation, of union, of coordination among the farmers of this country just as I believe there is among the manufacturers who use farm products, just as I believe there is, to at least a great extent, among the millers of the country, and the millers of the Old World who use the cotton of the South. When you have a small number of men engaged in an industry, it is practical for them to combine, for them to cooperate, but it is almost impossible for the farmers to do anything of that sort.

Suppose we did not have the cotton exchanges to tell the farmers in every morning paper what cotton is quoted at in Liverpool, in New York, in Charleston, in New Orleans, in Atlanta, in Montgomery, in Memphis, in Little Rock, in Dallas, in Houston, and all the great cotton exchanges of the country: How would the farmer know what was the price of his product? How could he sell intelligently? Would he not be at the mercy of buyers throughout the land who would represent the great mills of the country and the great manufacturers of the country? Ah, my friends, the farmer gets a great deal more benefit than injury out of these cotton exchanges.

Continuing:

If he—

The farmer—

wants to sell there is always a buyer and if he wants to hold he can do so with a knowledge of what the market actually is, and not be kept in a "fool's paradise," as was the case under antemodern trade methods. The man in Texas and the man on the coast of the Carolinas knows what is going on in cotton at home and abroad and has no cause to sacrifice his goods by reason of ignorance of what is doing elsewhere.

I am reading this letter because it contains great wisdom, and I want Senators to drink the wisdom of my friend Ed Butler, who knows a great deal about this subject and is a good, reliable high-grade man in every respect, if he is president of the New Orleans Cotton Exchange. I vouch for him.

Mr. CARAWAY. At least the Senator gives him a good reputation.

Mr. RANSDELL. He has a good reputation at home and abroad, and he certainly deserves it. I continue reading from the letter; and I ask the Senator from Utah to listen to this:

As to the speculative feature, reports thereof are largely overstated, four-fifths of the cotton future contracts are for price insurance of spot cotton bought or sold, and as often as cotton changes hands from time of production to final consumption, it is made the subject of one or more contracts for the protection of the holders against price fluctuations.

The Senator knows that the great English Lloyd's insurance company will insure anything on earth. Some boys down in my town got insurance last year that there would be no rain to interfere with their games of baseball. Corporations insure everything in the world, under modern conditions, and cotton is insured in all its phases.

Mr. OVERMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from North Carolina?

Mr. RANSDELL. I yield.

Mr. OVERMAN. How is it possible that there can be a hundred million bales of cotton sold on the exchange and only ten million raised? Four-fifths would be 80,000,000 bales, so how is that insurance? The cotton is not in existence.

Mr. RANSDELL. I will say to the Senator that Mr. West, this very able man from Arkansas, testified that the same bale of cotton would be sold 9 or 10 times in legitimate business hedges or insurance. Some of it is pure speculation, some of it is gambling, as I have tried to bring out. If each bale, let me say, is sold 9 times in legitimate hedges, as testified by Mr. West, you would have 9 times 10, or 90,000,000 bales, the exact amount which the Senator from Georgia says was reported last year, I believe.

Mr. OVERMAN. I can not get that through my head.

Mr. RANSDELL. I am sorry that I am so dull.

Mr. OVERMAN. It is not the Senator; it is Butler.

Mr. RANSDELL. Butler did not say it.

Mr. OVERMAN. How is a bale sold nine times?

Mr. RANSDELL. I mean there were about nine contracts for each bale, there were contracts equivalent to nine times as much cotton as there were bales.

Mr. OVERMAN. I am a cotton-mill man. I buy a bale of cotton and I hedge on it. How can I hedge on it any more?

Mr. RANSDELL. It might be hedged a number of times before it reaches the Senator.

Mr. OVERMAN. I am the man who is hedging, and who is hedging on the cotton before I get it?

Mr. RANSDELL. I can tell the Senator who some of them are who hedge, though I do not know the whole story. I am a grower of cotton. Let us assume that I am satisfied that cotton is going to be worth around 27 cents. I believe that is about what they are quoting cotton at next fall. In order to insure that my spot cotton will bring 27 cents next fall, I go on the future market and sell as many bales as I hope to raise. Is not that an insurance that I am going to get that 27 cents next fall?

Mr. OVERMAN. I never knew of a farmer hedging.

Mr. RANSDELL. Ever so many farmers do hedge. All right; I am going to try to come to the other fellow. Let us take Mr. McFadden, one of the biggest dealers in cotton in America. He wants to supply some mills in the Senator's great State—and I am happy to say the Senator's State is doing wonderfully in cotton manufacturing. I am proud of old North Carolina. Mr. McFadden wants to make contracts with your mills for this hundred bales of cotton, so he would say, "All right; October cotton is now 27 cents." If I could sell that cotton at 27¼ cents to the Senator's mill, I would be making a quarter of a cent, which is a pretty good profit on the big deals Mr. McFadden makes. He says, "I will contract to deliver you next October a hundred bales of cotton at 27¼ cents."

Ah, but Mr. McFadden does not know what he will have to pay for that cotton next October, so he goes on the future market and buys 100 bales of middling cotton, deliverable next October. That means that he has a contract which insures him next October a hundred bales of cotton at 27 cents. That is two deals, is it not?

Mr. OVERMAN. There is no cotton in the ground.

Mr. RANSDELL. I do not care whether there is any cotton in the ground or not; it is a legitimate business transaction. Does the Senator mean to tell me that it would not be legitimate for the mills in old North Carolina, during this good month of February, 1924, to contract for the delivery next October of certain grades of cotton to people in India, or China, or Japan? Would it not be a perfectly valid, businesslike arrangement for your mills to say to the consumer in Japan, the consumer in India, the consumer in China, "I will sell you so many yards of calico, so many yards of this print or that print or the other print, deliverable next October, at such a price"? It is perfectly valid. You have not the cotton in your mills, Senator. You have not spun it yet. You have not the raw cotton actually in your warehouses, but you know you can get it, and you contract with them for the future delivery of that specific commodity of your manufacture.

That is done all the time. In order that you may know at what price you can sell your manufactured article, you must know what the raw cotton will cost you, and you go into the exchange and make the contract for the delivery of the kind of cotton you will need to manufacture.

There are various branches of this thing. Mr. West said that there were about nine of these transactions entered into for every bale of cotton. I am pretty nearly through, and I hope Senators will let me finish. I continue reading:

> The future contract is actually the means by which the handler of cotton—

I would like to have the Senator from Utah [Mr. KING] listen to this.

> The future contract is actually the means by which the handler of cotton protects himself from speculation.

That mill transaction I brought out shows I do not have to speculate; I know what my cotton is going to cost me next October. I know what I am going to sell my finished product for to those people over in India or China. I am simply the intermediary, the middleman, the hard-working, honest manufacturer of that cotton. The exchange is an agency and a wonderful agency for legitimate business. I will say to the Senator that you can not carry on business in the marts of the world without some such agency.

Mr. KING. Will the Senator yield?

Mr. RANSDELL. I am delighted to yield.

Mr. KING. I have not taken the position that stock exchanges ought to be abolished. I have a very strong conviction, however, that the abuses of the stock exchanges call for drastic and immediate legislation, either State or National. The bucket-shop failures——

Mr. RANSDELL. Bucket shops! I say amen to all the Senator may say in denunciation of them.

Mr. KING. The bucket-shop failures and the other failures demand rectification by legislation.

Mr. RANSDELL. That is all right.

Mr. KING. The Senator will recall that a short time ago a certain commodity exchange in New York forced the price of sugar far beyond any legitimate price, the result of which was that the American people were robbed of perhaps from fifty to seventy-five million dollars. The Senator has just stated that he knows what he will get for his cotton. If he hedges, or desires to buy cotton as a mill man, he knows what he will have to pay six months or a year from now. He knows because he is buying upon an uncertain, a gambling market, a market which is determined by gamblers.

Mr. RANSDELL. No; not at all; it is determined by business men. The New York Cotton Exchange is conducted by business men. The New Orleans Cotton Exchange is conducted by business men. It is regulated absolutely by law. If one enters into a contract there, he is forced to comply with that contract or he will go to the penitentiary. It is not a gambling matter at all. All people do not go on the market and gamble, for the exchange itself is a business institution, a great medium of insurance.

Mr. KING. But the Senator knows that no one can accurately determine now the number of bales of cotton that will be matured next year.

Mr. RANSDELL. That is true.

Mr. KING. The Senator knows that we can not determine how much cotton Great Britain will ask and purchase in America. Neither does he know the number of bales of cotton that will be purchased by the mills of the United States. So he goes to these high-grade, reputable stock gamblers in the stock exchange and buys, or hedges, or sells, and he knows that the prices for which he bargains and the prices at which he sells will be determined by the quantity of hedging and the quantity of gambling conducted by the gambling exchanges or the stock exchanges of the United States.

Mr. RANSDELL. No; I do not know anything of the kind. I regard this as a business transaction. I wonder if the Senator believes it is gambling for me to insure that my house will not burn? I have insurance on it. I have been carrying it for about 35 years.

Mr. KING rose.

Mr. RANSDELL. Let me answer the Senator now. I have been carrying the insurance on my residence for 35 years, and, thank the Lord, it has not burned yet. I think I have been benefited wonderfully, although it has not burned. The insurance is simply one phase of business. Does the Senator mean to tell me that the business of this country must be conducted absolutely spot cash over the counter?

Mr. KING. No.

Mr. RANSDELL. Has not the Senator been aware of the fact, is he not aware of the fact, that the lumber in many of the great forests of this country is sold before a tree is ever cut down, and that the men who manufacture the forests into innumerable commodities of human use sell them long before the lumber ever gets to them?

Mr. OWEN. Mr. President——

Mr. RANSDELL. Pardon me one moment, and I will answer the Senator presently. How in the world do they do that? They say there is only one criterion for the future, and that is the past. If the people of the United States and the people of the world used so many billion feet of lumber in the past, in all probability they will use that same amount in the future, because there are just as many people; in fact, the population is increasing.

In the Senator's question about cotton, he says I do not know how many bales of cotton are going to be consumed by the people of America; that I do not know how many bales of cotton are going to be consumed by the people of the Old World; that I do not know how many manufactured articles are going to be sold. Certainly I do not. But again I tell the Senator the only criterion for the future is the past. I, as a business man, study the facts, the conditions, the circumstances of the past, and with that knowledge of the past I make my calculations on the future, and then I go into the exchanges and get the insurance for the delivery of my cotton, just as I used to go to Lloyds, but, thank Heaven, to the American Bureau of Shipping and American shipping companies now, and when my ship sails from New York or New Orleans I get an insurance that it will go safely to Australia, to South Africa,

to Europe, to the marts of the world and return. It is a guaranty. I pay for it, and I get the goods. It is all business. I grant you there is some speculation in it, but it is all based on sound business principles.

I now yield to the Senator from Oklahoma.

Mr. OWEN. The Senator from Louisiana defends with great skill the defensible. He has not adequately defended the indefensible part of the stock exchange which without governmental or public supervision does permit speculation, does permit the manipulation of the press, does manipulate public opinion to the point where it may create a bull or bear market, and then men speculate on the stock exchange using for illegitimate and unjust purposes an instrumentality which has its meritorious place in American commerce.

Mr. RANSDELL. I answered that question before the Senator came into the Senate Chamber and stated that I did not know anything in the world about stock exchanges, and I am not saying one word in defense of them, as I would like to have the Senator know. I was explaining the cotton exchange. I have not opened my mouth, I will say to the Senator, in defense of the indefensible practices of some of the exchanges of the country which, to my mind, are very, very reprehensible.

Mr. OWEN. That was only the extent of my observation.

Mr. RANSDELL. The Senator just misunderstood what I was saying; that is all.

Mr. OVERMAN. Mr. President, will the Senator permit me to read a brief statement just at this point?

Mr. RANSDELL. Will not the Senator let me finish my remarks, and then I shall be through?

Mr. OVERMAN. I just want to set forth the facts as shown by this report.

Mr. RANSDELL. From what is the Senator about to read?

Mr. OVERMAN. From a report of the Federal Trade Commission on the cotton trade, dated February 26, 1923.

Mr. RANSDELL. I yield to the Senator for that purpose.

Mr. OVERMAN. The New York Stock Exchange in 1921–22 sold 78,361,700 bales of cotton. The New Orleans Cotton Exchange sold 40,701,700 bales. There were only 11,000,000 bales raised. Let us see now what the exchanges delivered. The New York Cotton Exchange sold 78,000,000 bales and delivered 546,800. The New Orleans Cotton Exchange sold 40,000,000 bales and delivered 101,400. I would like to have that table placed in the RECORD if the Senator has no objection.

Mr. RANSDELL. I have no objection at all.

Mr. OVERMAN. Then I ask that the table be incorporated in the RECORD at this point.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

The table referred to is as follows:

THE VOLUME OF FUTURE TRADING AND OF DELIVERIES.

The following statement shows for specified years the volume of trading in cotton futures on the American cotton exchanges:

Exchange.	1918–19	1919–20	1920–21	1921–22
	Bales.	*Bales.*	*Bales.*	*Bales.*
New York Cotton Exchange	73,159,800	73,333,300	67,758,600	78,361,700
New Orleans Cotton Exchange	34,100,000	49,148,700	34,509,500	40,701,700
American Cotton Exchange (New York City)		490,910	2,165,850	5,572,410
Total	107,259,800	122,972,910	104,433,950	124,635,810
Total United States crop [1]	11,906,480	11,325,532	13,270,970	7,977,778

[1] Running bales, counting round as half bales, as reported by the Bureau of the Census, "Cotton Production in the United States—Crop of 1921," p. 2.

The total volume of future trading on the three exchanges ranged (in the four-year period 1918–1922) from 104,433,950 bales in 1920–21 to 124,635,810 bales in 1921–22. The statement clearly shows that the New York market is the one most frequently used for trading in futures.

The following statement shows the volume of deliveries on future contracts on the New Orleans Cotton Exchange and on the two cotton exchanges at New York:

Exchange.	1919–20	1920–21	1921–22
	Bales.	*Bales.*	*Bales.*
New York Cotton Exchange	84,000	265,900	546,800
New Orleans Cotton Exchange	36,100	112,100	101,400
American Cotton and Grain Exchange	350	1,300	590
Total	120,450	379,300	648,790

As shown by the statement, the quantity of cotton delivered on future contracts at New York and New Orleans ranged (in the three-year period 1919–1922) from 120,450 bales in 1919–20 to 648,790 bales in 1921–22. The volume of deliveries at New York greatly exceeded those at New Orleans.

Mr. RANSDELL. Continuing the reading of Mr. Butler's letter:

The future contract is actually the means by which the handler of cotton protects himself from speculation. Speculators themselves serve a valuable function by standing between producer and consumer to carry cotton when not immediately needed by the mills, guarding against the effects of persistent and rapid declines in values. The trouble is that if you give a dog a bad name everyone ignorant of his true value wants to kill him; and so it is that whenever there is a decline in cotton, superinduced by world happenings, such as unfavorable exchange or freight rebates or numerous other matters at home or abroad; political upheavals in remote parts of the world, threatening consumption; or United States Government reports predicting or guessing increased supplies or reduced consumption—say any one or all of these, which may produce a decline, it is an invariable rule in many quarters to attribute such declines to manipulation of the cotton-future contract market, which, in fact, reflects conditions but is not the cause thereof. In fact, the cotton-future market is governed almost exclusively by broad, economic principles, which, if known and properly appreciated, are of the utmost value in enhancing and protecting the interests of the American producer. It is as far ahead of former methods as the trolley is of the old mule or horse car, and the fact that it is in use by exchanges abroad for their protection and has come to stay with them emphasizes its necessity for our own protection as the producers and handlers of a large percentage of the world's supply.

I am sure that if the Legislature of South Carolina understood the system as it truly is their views as set forth in the concurrent resolution above referred to would be less drastic, if not reversed.

Very truly yours,

EDW. S. BUTLER, *President.*

I do not care to pursue the subject further. At some future time I propose to go into it rather fully. I have touched it only cursorily this afternoon.

Mr. DIAL. Mr. President, the idea of the Legislature of South Carolina not knowing what it is doing is preposterous. The men who indorsed the bill which I introduced are some of the largest farmers of South Carolina. My recollection is that one of the joint introducers raised 400 bales of cotton last year. They do not have to go to New Orleans or to any cotton exchange to get information on the matter of cotton.

I am not going to continue a speech, but I just want to make a brief statement. Honest confession is good for the soul. Last year I got a little vexed with my good friend from Louisiana [Mr. RANSDELL], who now sits in front of me, about his persistency against my bill proposing an amendment to the cotton futures contract law. But after hearing him longer I am satisfied that he is just as fair as any man on the earth in his convictions upon the proposition. But he does not carry the subject far enough. He looks only between the buyer and the seller of the contract. I have nothing to say about them. If one wants to let the other "mark the cards" that is their affair. What I am talking about is the effect of that contract on the grower of cotton.

The Senator spoke in glowing terms and very eloquently about the hedging proposition. Hedging is perfectly proper. They, perhaps, ought to hedge or get some insurance in some other way to protect the contracts they make. But here is the point: Who in the world is hedging for the farmer in the meantime? All that hedging means is, for instance, if a manufacturer gets an offer for all the goods he can make in the next three months—and let us assume he will consume a thousand bales of cotton a month to fill that order—that manufacturer will not make a contract to sell his goods because he does not know at what price he can purchase cotton. He would be afraid the price of cotton would go up and that he would lose on his contract. He can not rely upon buying future contracts and demanding delivery of the cotton because no mill can use those 10 grades of cotton, and the seller has the right to dump whichever grades he sees proper. That is not protection to him. So he will buy contracts for all the cotton he needs in the three months. He will wire his broker in New York to buy a thousand bales in each of those three months.

When he gets ready for that cotton he will send his buyer out on the street to buy a thousand bales of cotton. He bought the contracts, we will say, at 30 cents a pound, but the mill does not care whether the price of cotton goes up or down.

It has contracted to sell its goods and contracted to buy its supply of cotton. The buyer goes out on the street to buy the cotton. Cotton has gone down to 29 cents a pound. Every time he buys 100 bales of cotton he wires the broker in New

York to close out one contract. He has made a loss of $500 on every 100 bales of cotton that he contracted to buy, but he has bought his cotton $500 cheaper per 100 bales. Therefore the mill has hedged, as they call it. The mill is even. I have no complaint to make about the mill. It is immaterial with the mill whether cotton goes up or down, in that case.

The mill people wait another month and then they need another thousand bales of cotton. They repeat the proposition. If cotton has gone up to 31 cents a pound, the mill has to pay $500 more for 100 bales of cotton and therefore it has a $500 loss on each 100 bales of cotton, but it has made $500 on each 100-bale contract and therefore the mill again is even. It is immaterial to the mill whether cotton goes up or down, but what I want to know is who in the meantime is insuring for the poor devil who is digging it out of the ground?

My friend from Louisiana speaks about the figures. The consumption of cotton in the world is only about 21,000,000 bales a year, so his figures are all out of line.

INVESTIGATION OF STOCK AND COMMODITY EXCHANGES.

Mr. KING. Mr. President, in view of the evils which have incidentally been referred to this afternoon and which are manifest to everybody who is familiar with our economic and business life, I felt that an investigation of the stock exchanges and commodity and grain exchanges by the Senate would be of benefit to the country. Accordingly I offered a resolution at the opening of this session, which I send to the desk and ask the Secetary to read.

The PRESIDING OFFICER. Without objection, the Secretary will read as reqested.

The resolution (S. Res. 57) submitted by Mr. KING on December 11, 1923, was read as follows:

Whereas it has been publicly charged that the stock exchanges, commodity exchanges, and brokerage houses in New York City and in other cities of the United States are being so conducted as to facilitate the manipulation of prices of securities, of grain, and of other commodities on such exchanges and to cause grave injury and loss to the general body of investors, producers, and consumers of this country; and

Whereas it has been publicly charged that banks, including member banks of the Federal reserve system, insurance companies, and other financial interests in New York City and in other cities, have improvidently loaned large sums of money to brokers and to individuals connected with brokerage houses, banks, insurance companies, or other financial interests, which sums of money are used by brokers and other individuals for speculative or marginal dealings and in the manipulation of prices of securities and commodities on stock exchanges and commodity exchanges; and

Whereas it is advisable to gather the facts relating to the aforesaid charges as the basis for remedial and other legislative purposes: Therefore be it

Resolved, That a committee of five Senators be appointed by the President of the Senate. The committee is hereby authorized and directed—

1. To conduct an investigation of stock exchanges, commodity exchanges, and brokerage houses and of the means and methods employed by speculators in the manipulation on such exchanges of prices of securities and commodities, particularly grain, sugar, and other food products; and

2. To inquire into and investigate the charges that banks, including member banks of the Federal reserve system, insurance companies, and other financial interests in New York City and in other cities have improvidently loaned large sums of money to brokers and to individuals connected with brokerage houses, banks, insurance companies, and other financial interests, which loans are used for speculative or marginal dealings and for the manipulation of prices of securities and commodities on the stock exchanges and produce exchanges.

Such committee as a whole or by subcommittee is authorized to hold hearings, to sit during the sessions or recesses of the Sixty-eighth Congress at such times and places, to employ such counsel, experts, and accountants, and clerical and other stenographic assistants as it may deem advisable. The committee is further authorized to send for persons and papers; to require by subpœna or otherwise the attendance of witnesses, the production of books, papers, and documents; to administer oaths, and to take testimony, as it may deem advisable. The cost of stenographic service to report such hearings shall not be in excess of 25 cents per hundred words. Subpœnas for witnesses shall be issued under the signature of the chairman of the committee or subcommittee thereof. Every person who, having been summoned as a witness by authority of said committee or any subcommittee thereof, willfully makes default or who, having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be liable to the penalties provided by section 102 of the Revised Statutes of the United States. The expenses of the committee shall be paid from the contingent fund of the Senate.

Mr. WARREN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Wyoming?

Mr. KING. I yield.

Mr. WARREN. I assume that, perhaps, the Senator from Utah intends to address himself to the resolution?

Mr. KING. Yes.

Mr. WARREN. I rose to ask a question. I know that the Senator is economical, and I know he is one of those who earnestly desire to guard the public expenditures so that they may be kept at the lowest possible figure. I therefore desire to ask what is the Senator's idea as to the possible expense involved in an investigation of the kind he now proposes? I am prompted to ask the question because of some investigations which we have heretofore instituted, the expenses of which have run into a great many thousands of dollars. It seems to me, indeed, that we are going a little wild in providing for investigations. I should, therefore, be glad to have the Senator's idea about the expense which he thinks would be involved in this instance.

Mr. KING. Mr. President, the able Senator from Wyoming, with his wide experience, could give an opinion which would be of greater value than any which I might express. May I say that there is a disposition to investigate too much, to investigate everybody and everything, but some organizations and activities ought to be investigated. The Senator from Wyoming will not contend that good has not resulted from some investigations which have been made.

The present Presiding Officer [Mr. MOSES in the chair] is now engaged in an investigation of Mr. Bok for offering a prize for a plan for world peace; to make such investigation of the Bok peace seems unwise, not to say foolish and improper. As to the cost of the investigation which I propose, I should imagine that the cost would run between $5,000 and $15,000.

Mr. WARREN. Mr. President, in view of the expenses of many other investigations, I fear that the calculation of the Senator from Utah is very small.

I agree with the Senator that some of the investigations which have been instituted have borne fruit; but, looking back over a series of years, I think it is but fair to say that most of them have resulted in nothing except the printing of many documents which have gone into pigeonholes and storerooms about the Capitol and elsewhere.

While I make no objection to the proposed investigation, I do wish to know whether or not, in the estimation of the Senator, it may be accomplished with an expenditure of $12,000 or $75,000. I deem it my duty to make some of these inquiries which I have made, because we have to reimburse the contingent fund of the Senate at various times for the large appropriations made for the use of investigating committees. Those appropriations have grown to be 100 times what they once were in the expenses of the Senate, and it seems to me the proportion is a bit too large.

The PRESIDING OFFICER. The Chair will inform the Senator from Wyoming that the resolution of the Senator from Utah is not now before the Senate.

Mr. KING. Mr. President, I commend the able Senator from Wyoming [Mr. WARREN] for the vigilance which he displays in guarding the Public Treasury. I have had occasion to support him in many measures, and I have also differed with him in many instances when I felt the appropriations sought were too large.

Mr. WARREN. Mr. President, I will remind the honorable Presiding Officer that while it is true the matter being discussed by the Senator from Utah may not be before the Senate the Senator from Utah was about to speak to the resolution before the Senate, and I therefore desired to propound the inquiry which I have propounded and to which I have been pleased to have the Senator reply.

Mr. KING. Mr. President, I had not intended to discuss the resolution or cognate question until the Senator from South Carolina [Mr. DIAL] and the Senator from Louisiana [Mr. RANSDELL] called attention to certain matters connected with the cotton exchanges and their activities, and I shall not at this time attempt any extended and comprehensive discussion of the questions presented by the resolution just read.

The speculation in so-called securities, or "playing the stock exchange," as the phrase goes, is assuming the proportions of a national vice. The country has been shocked at the failures of stock brokers in the city of New York within the last two years, and the customers and clients of these bankrupt brokerage firms have been more than shocked; they have been overtaken with financial ruin. "Playing the stock

market" is not by any means confined to the city of New York. In many communities we find the ubiquitous broker with his board of current quotations, received legitimately or illegitimately over wires from the New York Stock Exchange and the Chicago Board of Trade. This board is displayed in the broker's trading room, which comports in appointments and attractiveness with the stand the broker is making to attract the public. These trading rooms vary all the way from the small-town bucket shop to luxurious quarters on the ground floor of business buildings in the metropolitan centers. There is but little, if any, difference between the quarters of the bucket shop and the quarters of the legitimate broker except one of degree. And many brokers of the highest standing often, if not habitually, "bucket" their orders, and many of them in New York and elsewhere assume to combine the functions of broker and banker, carry accounts with their customers, and charge interest on unpaid purchase money for stocks bought and sold on customer's account.

To illustrate the wide extent of the activity of those who follow the stock market, I desire to direct attention to the fact that for the fiscal year ended June 30, 1923, the collector of internal revenue reported that there were 19,526 stock, produce, and merchandise brokers in the United States, distributed among the States. I have here, Mr. President, a list of the States showing the distribution, which I ask to have printed without reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

Alabama	169
Arizona	23
Arkansas	95
California	1,523
Colorado	250
Connecticut	113
Delaware	49
Florida	197
Georgia	246
Hawaii	46
Idaho	45
Illinois	1,883
Indiana	217
Iowa	340
Kansas	141
Kentucky	169
Louisiana	212
Maine	48
Maryland	624
Massachusetts	970
Michigan	326
Minnesota	525
Mississippi	56
Missouri	668
Montana	54
Nebraska	145
Nevada	13
New Hampshire	26
New Jersey	217
New Mexico	8
New York	4,198
North Carolina	929
North Dakota	15
Ohio	866
Oklahoma	51
Oregon	259
Pennsylvania	1,259
Rhode Island	81
South Carolina	205
South Dakota	6
Tennessee	389
Texas	589
Utah	56
Vermont	9
Virginia	369
Washington	400
West Virginia	90
Wisconsin	348
Wyoming	9

Mr. KING. It is proper to state that the foregoing tabulation includes produce and merchandise brokers as well as stockbrokers. The statistics of the brokers' license tax paid the Federal Government do not separate the stockbrokers from the other brokers. I have, however, examined a commercial list of stockbrokers in the country who have doubtless paid to have their names entered in the list, and I find that this list contains the names of 4,566 stockbrokers. I ask leave to insert the list in the RECORD without reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list referred to is as follows:

New York City	1,386
Brooklyn	24
New York State	177
Connecticut	70
Maine	42
Massachusetts	257
New Hampshire	10
New Jersey	66
Pennsylvania	485
Rhode Island	44
Vermont	1
Ohio	220
Alabama	11
Delaware	10
Florida	12
Georgia	28
Illinois	365
Indiana	51
Kentucky	25
Maryland	87
Michigan	149
Mississippi	1
North Carolina	8
Tennessee	19
Virginia	26
Washington, D. C.	32
West Virginia	14
Wisconsin	72
Arizona	5
Arkansas	10
California	240
Colorado	61
Idaho	1
Iowa	53
Washington	67
South Carolina	9
Kansas	26
Louisiana	41
Minnesota	90
Missouri	118
Montana	13
Nebraska	23
North Dakota	5
Oklahoma	26
Oregon	20
South Dakota	2
Texas	49
Utah	13
Wyoming	2

Mr. KING. Mr. President, many of the brokerage firms in this commercial list maintain numerous branch offices, none of which are counted in the above enumeration. The list, moreover, as indicated above, is by no means complete, but contains the names only of those brokers who advertise in the publication from which the list is taken. The total number of these advertising brokers is only about one-fourth of the number of brokers who pay the Federal tax, the great proportion of whom are stockbrokers. It must also be understood that for every broker there are a more or less large number of clients and customers who represent the public end of this stock-speculating game and whom the brokers get going and coming for commissions on their purchases and sales. These members of the public who crowd in the trading rooms of the bucket shops and brokerage houses the country over constitute a great multitude of people who are infected with the vice of following the stock market, with whom quotations are a daily obsession, who waste days and weeks of their time loitering in the trading rooms, and who exhibit all the manners and gambling psychology so obvious in the men who follow the race horses and play the ponies in this country. These persons have a constant concern with what the "market is doing" and what a certain stock "has made." They have developed a language of their own, which is betrayed in their ordinary conversation.

But the heart and center of this widely ramified business is New York City, and specifically the New York Stock Exchange. To demonstrate the domination of New York in these stock transfers we have only to consider that of the total transfer tax on shares of capital stock reported by the Bureau of Internal Revenue for the year ended June 30, 1923, amounting in all to $9,871,604.11, $8,808,284.54 was reported from the Wall Street district of New York City, the residue of $1,063,319.57 being the capital-stock transfer tax paid in the country outside of New York City. These figures afford the best index of the volume of actual share transfers in the country. This tax is assessed at the rate of 2 cents for each $100 of face value or fraction thereof. At the rate of 2 cents per $100 of face value the total tax of $9,871,604.11 indicates a nominal face or par value of the securities transferred of $49,358,020,550, of which $44,041,422,700 represents the face or par value of the shares of corporate stock transferred in the Wall Street district of New York City.

The total shared capital of corporations reporting to the Commissioner General of Internal Revenue for the fiscal year ended June 30, 1922, at par value, was, for common stock, $56,607,361,974, and of preferred stock, $13,623,114,781, making a total par value of share capital, common and preferred, of corporations in the United States of $70,230,476,755, upon which it is claimed that a fair value exists of $75,406,625,174. The volume of share transfers in the United States it would seem amounts to two-thirds of the total share capital of all the corporations in the country. But it must be remembered that trading in shares proceeds almost exclusively in shares that

are listed with and quoted upon the New York Stock Exchange, It is the quotations made upon the New York Stock Exchange and carried over the wires to all parts of the country and, indeed, of the world, upon which speculative sales of share securities are made; so that the great volume, indeed, nearly the total volume, of these sales is made up of the sales of share capital of corporations listed on the New York Stock Exchange. The par value of share securities listed on the New York Stock Exchange as of October 13, 1921, was $18,464,305,009, from which it follows that the volume of sales on the New York exchanges in one year amount to two and one-half times the total par value of the shares of all the corporations whose capital stock is listed by the New York Stock Exchange. This indicates an unnatural abnormal turnover of the funded capital of American industrial and financial corporations which can only be interpreted as indicating extensive gambling and speculation in these shares, the fomenting of fluctuations in values and quotations, without which speculation could not proceed, and which can not be said to be of any benefit to the corporations concerned, to the effectiveness and capacity of their physical plants and equipment for the promotion of production, the extension of markets, or the realization of revenue and earnings. The tremendous sums of money which are constantly employed to effectuate these turnovers are of no more value or utility to the commerce of the country or to the productive enterprise of the country than if this tremendous sum of money represented $50,000,000,000 of gambling wages, in which this money was merely transferred from one side to the other side of a gaming table. But this condition would be more tolerable if those who indulged in these speculations were able, from a financial standpoint, to follow this game; but the fact is that it is a vice which carries down to poverty multitudes of men who can not afford to indulge in this gaming, gambling luxury.

The dealings in shares of corporate stock upon the New York Stock Exchange for the last 20 years is indicated in the following tabulation, giving the total number of shares sold per annum for the years specified:

	Number of shares.
1890	71,826,685
1891	99,031,689
1892	86,726,410
1893	77,984,965
1894	49,275,736
1895	66,440,576
1896	56,663,023
1897	77,470,963
1898	112,160,166
1899	175,073,855
1900	138,312,266
1901	265,577,354
1902	188,321,181
1903	100,748,366
1904	186,429,384
1905	263,040,993
1906	283,707,955
1907	195,445,321
1908	196,821,875
1909	214,425,978
1910	163,882,956
1911	126,515,906
1912	131,051,116
1913	83,083,585
1914	47,899,573
1915	173,378,655
1916	232,842,807
1917	184,536,371
1918	143,378,095
1919	307,889,450
1920	223,931,439
1921	170,839,539
1922	200,753,997

These tabulations are the figures for the New York Stock Exchange. They do not, of course, include the number of shares sold on the curb, the consolidated exchanges, or otherwise, in New York City or elsewhere. For the fiscal year ended June 30, 1923, the total indicated value of the transfer of shares upon which the Government tax of 2 cents per hundred dollars of face value was paid amounted to $49,358,020,550. At the customary or usual par or face value of $100 per share, these figures would indicate that the sales of shares upon which the Government tax was paid for one year amounted to 493,580,205 shares, upon the transfer of which the Government tax was paid, and which must be accepted as the best indication as to the number of corporate shares traded in the United States in one year.

It is obvious that the tremendous amount of trading in shares of stock for speculative purposes absorbs a large volume of the funds of the banks and the money capital of the country. On the New York Stock Exchange these speculative operations are financed by call money, supplied by the New York banks. "Call money" is a phrase used to denote loans made for one day, and which may be called at any time after one day. These loans are made upon the pledge of stock collateral. Every day the bankers of New York at the so-called money desk on the floor of the New York Stock Exchange offer their available funds for the purpose of carrying the transactions made on the exchange.

It is known that the amount of call money offered by the banks, which is governed largely by their surplus reserves, has a direct effect upon the fluctuations in the stock market and the speculations which these fluctuations stimulate.

The plain fact is that the New York Stock Exchange is operated primarily for the benefit of brokers and bankers. These are the only persons who regularly and invariably profit from the transactions on the exchange. The broker takes his commissions on all sales and purchases and the banker takes his interest on his call loans. As to the public, they win or lose, just as the public which follow the horse races win or lose.

The advantage in both cases is with the so-called insiders or the professional operators who are shrewd enough to buy and sell within such fluctuations of the market as afford them a profit, thereby unloading the losses, corresponding to their profits, on the other parties to the transaction.

The New York banks are up to their necks in the trading on the New York Stock Exchange. The brokers on the floor are there to make their commissions, and the bankers are there to make their interest on their daily loans. The quantity of such call loans made by New York City banks for the year 1920, for the days indicated, is as follows:

January 2	$1,349,322,000
January 9	1,364,917,000
January 16	1,322,171,000
January 23	1,302,305,000
January 30	1,280,995,000
February 6	1,237,645,000
February 13	1,154,004,000
February 20	1,094,354,000
February 27	1,091,246,000
March 5	1,073,919,000
March 12	1,076,734,000
March 19	1,088,796,000
March 26	1,080,841,000
April 2	1,087,009,000
April 9	1,088,840,000
April 16	1,123,669,000
April 23	1,106,271,000
April 30	1,088,865,000
May 7	1,064,104,000
May 14	1,019,656,000
May 21	1,005,441,000
May 28	970,579,000
June 4	944,834,000
June 11	931,039,000
June 18	952,067,000
June 25	944,160,000
July 2	938,151,000
July 9	946,949,000
July 16	923,948,000
July 23	916,662,000
July 30	912,828,000
August 6	885,130,000
August 13	863,385,000
August 20	879,892,000
August 27	802,500,000
September 3	843,224,000
September 10	871,560,000
September 17	881,822,000
September 24	875,700,000
October 1	895,344,000
October 8	924,495,000
October 15	973,074,000
October 22	949,088,000
October 29	952,854,000
November 5	954,626,000
November 12	935,546,000
November 19	887,152,000
November 26	848,091,000
December 3	852,395,000
December 10	863,441,000
December 17	838,100,000
December 24	807,546,000
December 31	813,992,000

Call money advanced by the New York banks is used almost exclusively for the financing of so-called marginal transactions.

Call money is all loaned on stock-exchange collateral; and the difference between the 80 per cent of the market value which the bank will lend and the market value itself must have been advanced by the customer or broker on shares which are placed in the bank as security for the loan. A fall in the value of securities, of course, adversely affects the margin, and if the depreciation is great enough the margin is wiped out, with a loss to the borrower, as upon the sale the shares only bring the amount of the claim of the bank against the same. The bank intends to be secured in any event.

The losses made by margin traders, although of constant occurrence, are not exploited in the newspapers, and do not come within the knowledge of the general public. The customers who make the losses are somewhat ashamed of them and have no

desire to make them public; and the brokerage interests are, of course, adverse to exploiting the losses of their customers, as this would have a deterrent effect upon their solicitaton of new customers and new orders for execution upon the exchange.

The failure of brokerage houses, however, does become a matter of public knowledge. Whenever a broker sells to a customer shares he does not have, or buys for a customer shares which he does not obtain, the broker puts himself in a position of being short of such shares, and this is the practice of many brokers. If the market goes down, such shares may be purchased at a lower figure, and the broker will make the difference out of his customer. If, however, the shares advance, and the broker is short, he has to pay more for the shares in an advance market; and if the advance continues, and reaches unexpected quotations, the broker is overtaken by heavy losses.

This is because the broker exercises both the functions of broker and banker, often without sufficient capital and certainly with no insurance against the risks he assumes, and frequently depends upon being able to turn any possible losses against the customer whose account he carries on his books and to turn to himself any profits which may be realized by reason of any fluctuations of the market. In these cases the interest of the broker is opposed to the interest of his customer, as in all cases where the customer is a buyer the broker is in the position of a short seller; and in cases where the customer is a seller and the broker a buyer, if the customer sells short then the broker himself is in position to demand of the customer profits if the shares advance, and of course the loss in such case is borne by the customer. If the brokers themselves could stand these losses, well and good; but when they fail they of course carry down with them all of their creditors to the amount of their credit accounts against the broker. The customers who deposit margins with brokers are, of course, creditors.

I have made some investigation as to the failures of brokers and brokerage firms in the city of New York and have been informed that during the year 1922 and the last three months of 1921 the following brokers and brokerage houses in the city of New York failed, with liabilities and assets indicated in each case.

I shall not take the time to read this long list of failures, with the amount of liabilities in each case. I ask permission to insert it in the RECORD without reading.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The matter referred to is as follows:

Failures of brokers and brokerage firms in the city of New York during the year 1922 and the last three months of 1921.

Firm.	Liabilities.	Assets.	Exchange.
American Cotton Exchange (Inc.)	$265,000	$203,500	Consolidated.
Alexander & Co	70,000	10,000	
Anderson, Brown & Co	230,000	30,000	
M. T. Andrew & Co	250,000	10,000	
J. P. Atkin & Co	7,000	3,000	
James W. Ball & Co	262,800	2,500	Curb.
C. A. Bertrand & Co	184,800	167,100	Consolidated.
Bruen & Stake	200,000	8,000	
Callahan & Co	100,000	8,000	Do.
Carpenter, Caffrey & Co	925,000	600,000	New York.
Carnkin & Freed (Inc.)	60,000	1,000	
Chandler Bros. & Co			New York Curb.
Chayes & Co. (Inc.)	4,000	Nominal.	
E. H. Clarke & Co	1,200,000	350,000	Curb.
DeWitt H. Clark			
Joseph B. Clarke & Co	126,000	4,500	
Charles N. Clarkson & Co	450,000	30,000	
H. A. Cochrane & Co			
Community Finance Co	1,500,000	Nominal.	
Fred M. Conrad & Co	40,000	3,000	Associated Curbs, Consolidated, New York.
Thomas N. Cowley & Co	300,000	17,000	
Crawford, Patton & Cannon	1,200,000	500,000	
Crossman, Sherman & Co			
Culver & Co	200,000	5,000	Consolidated.
Daniels & Co	100,000	5,000	
M. E. & J. W. De Aguera	600,000	50,000	Do.
Charles A. De Salvo & Co	10,000	500	
A. J. Des Camps & Co	260,000	25,000	
E. D. Dier & Co	3,000,000	600,000	Associated Curb.
Dillon & Co	300,000	Nominal.	
Edwards & Gatenby	175,000	40,000	Consolidated.
Emanuel, Varcoe & Co	95,000	20,000	Do.
Ettinge & Wall	30,000	8,000	Do.
Fabian & Co	Unknown.	1,000	
Fidelity Finance Corporation	200,000	Nominal.	
Field Brothers	75,000	5,000	Do.
First National Co. (Inc.)	5,000	600	
Friedman, Markelson & Co	260,000	25,000	Do.
E. M. Fuller & Co	5,000,000	75,000	Do.
Gamble & Yates	70,000	6,000	

Failures of brokers and brokerage firms in the city of New York during the year 1922 and the last three months of 1921—Continued.

Firm.	Liabilities.	Assets.	Exchange.
Gerard & Co	$99,000	$3,000	
L. A. Gerson			
J. P. Gilligan & Co	14,000	3,300	
Alva Goodwin & Co	18,000	15,000	
Gordon, Neck & Co	7,800	Nominal.	
Edward Grace & Co	50,000	1,000	
Graf & Co	60,000	Nominal.	
Wm. Greenfield & Co			
Chester A. Gumpert	100,800	Nominal.	
Gutcheon, Nash & Co	30,000	2,000	
M. J. Haines & Co	86,200	18,600	Consolidated.
J. A. Haines & Co	15,000	6,000	
Hall & Co	400,000	4,000	Do.
B. F. Harburger & Co	Unknown.	1,000	
Haverbeck & Co	50,000	Nominal.	
Heatley, Robles & Smith	23,400	12,900	
Milton Heim	150,000	40,000	Do.
Higgins & Dias	249,800	50,000	Consolidated.
William H. Hillyer			
Hoey, Tilden & Co	250,000	120,000	New York-Associated Curb.
Hollister, Lyons & Walton	1,200,000	480,000	New York.
Houston, Fible & Co	6,200,000	5,700,000	Do.
Howell & Wales	800,000	300,000	Consolidated.
Italian Bond Sales Bureau	50,000	1,000	
Charles C. James & Co	350,000	6,000	Associated Curb-Cotton
A. T. Jennings & Co			American Consolidated.
Jones & Thurmond			
Kardos & Burke	1,200,000	500,000	Consolidated.
Wm. H. Kemp (Inc.)	133,400	800	
Geo. W. Kendrick 3d & Co			Associated Curb-New York.
A. E. King & Co	18,000	500	Consolidated.
King & Scott	2,500	None.	
F. Kinnally	300,000	20,000	
Kohler, Bremer & Co	575,000	65,000	Do.
Edwin H. Kohn & Co	1,000,000	30,000	Do.
Kory & Co	129,700	12,700	Do.
Morton Lachenbruck & Co	150,000	60,000	Curb.
Libby & Co	50,000	1,000	
Alfred E. Lindsay	1,000,000	Nominal.	
S. M. Livingston & Co			
H. H. Lowy & Co			
Lyons, Marshall & Co			
H. L. Mandeville & Co	212,000	3,100	
Harry Massey & Co			
Maxwell, Hill & Reyher	10,800	800	
MacLaughlin & Co. (Inc.)	23,700	Unknown.	
R. H. MacMasters & Co	1,000,000	75,000	Consolidated.
McCall, Riley & Co	700,000	60,000	Do.
Herbert R. McCorey & Co	25,000	300	
McGovern & Co	64,500	Nominal.	
E. L. McGuigan & Co	60,000	13,000	American Cotton.
W. H. McKenna & Co	300,000	20,000	Consolidated.
McQuade Bros	100,000		Curb.
C. C. Medbury & Co	8,000	1,300	
Miniter, Norton & Co			
George W. Morse & Co	400,000	4,000	Consolidated.
Mosher & Wallace	300,000	150,000	Associated Curb-Consolidated.
I. B. Mullens & Co	55,000	6,000	
National Operating Co			
Irving B. Nettler	50,000	None.	Consolidated.
Franklin A. Norton & Co	200,000	25,000	Do.
F. Oppenheimer & Co	140,700	7,500	
Parke Bros	23,000	600	
E. L. Patton & Co	90,000	Nominal.	American Cotton.
Henry M. Peers & Co	75,000	100	New York Cotton.
George H. Perkins & Co	200,000	1,000	
Plunkett, Robertson & Co			Consolidated.
Post Bros. & Co	1,300,000	600,000	Associated Curb-New York.
Raabe, Glissman & Co. (Inc.)	106,700	10,000	
J. C. Rabiner & Co	703,000	12,000	Consolidated.
Rasmussen & Co	323,000	100,000	New York Produce Curb.
Raynor, Nicholas & Truesdell	1,800,000	230,000	Associated Curb-Consolidated.
Reitze & Sullivan	30,200	1,000	
Rodney & Co	135,000	35,000	Consolidated.
Rose & Co	800,000	50,000	American Cotton.
J. L. Ross & Co	23,500	2,000	
S. S. Ruskay & Co	4,000,000	200,000	Associated Curb-Consolidated.
Russell Securities Corporation	130,000	25,000	
Allen A. Ryan	18,000,000		New York.
Schap Bros	35,000	250	
Walter J. Schmidt & Co	400,000	100,000	Consolidated.
Schulkind Bros	20,000	7,500	Do.
Scott & Stump	445,400	30,100	Do.
Shewry & Falkland	170,000	7,000	Do.
Simmons & Co	15,000	Nominal.	
Winthrop Smith & Co	1,500,000	75,000	
Slattery & Co	1,750,000	900,000	
A. R. Smith & Co	75,000	10,000	Associated Curb.
S. E. Smith & Co	7,500	400	
Spaeth, MacKnight & Co			
Spence & Co	3,700	4,300	
C. W. Starbuck & Co	60,100	3,500	
M. Steiglitz & Co	105,000	5,000	
Stillwill, Leffler & Lowe	500,000	20,000	Consolidated.
Stoddard & Sanborn (Inc.)	2,500	None.	

Failures of brokers and brokerage firms in the city of New York during the year 1923 and the last three months of 1921—Continued.

Firm.	Liabilities.	Assets.	Exchange.
J. D. Sugarman & Co.	$1,289,000	$800,000	Consolidated-Curb-American. Cotton-New York Products.
J. Sykes & Co.	17,800	1,100	
J. M. Talley & Co.	.78,600	24,600	
Franklyn Taylor & Co.			
H. S. Thomas & Co. (Inc.)			
Trippe & Co.	800,000	400,000	Curb-New York.
E. W. Wagner & Co.	9,600,000	5,500,000	Do.
W. M. Walsh & Co.			
Cortlandt Ward & Co.	14,000	1,000	
F. B. Warren & Co.			
Wasserman Bros.	750,000	500,000	Associated Curb-New York.
Waters & Cook	45,000	3,000	Consolidated.
Weidner & Co.	40,000	Nominal.	
Wilk & Co.	60,000	6,000	
Winfield Bros.	20,000	3,500	
Maurice M. Wolf	276,800	104,700	
Wooster, Thomas & Co.	394,000	68,000	

(NOTE.—The above company has no relation with Simon & Co. now doing busines at 67 Exchange Place.)

Mr. KING. In addition to the foregoing failures, there were in the year 1923, a number of other failures of brokers and brokerage houses, including the important firms of Knauth, Nachod & Kuhne, Zimmerman & Forshay, Marshall & Co., and Wiggleman & Co.

These failures were so flagrant as to really amount to a public scandal and accordingly became the subject of investigation by the district attorney's office. I have received from Hon. Joab H. Banton, district attorney for the county of New York, a letter setting out with particularity some of the fraudulent, improvident, and improper practices which are prolific causes of the failures above referred to. Mr. Banton also outlines some remedial measures which I would like to bring to the attention of the Senate.

I ask that the Secretary may read the letter.

The PRESIDENT pro tempore. The Secretary will read.

The principal legislative clerk read as follows:

DISTRICT ATTORNEY'S OFFICE, COUNTY OF NEW YORK,
CRIMINAL COURTS BUILDING,
New York, September 21, 1923.

Hon. WILLIAM H. KING,
United States Senate, Senate Office Building, Washington, D. C.

DEAR SIR: I beg to acknowledge your letter of the 12th instant, inquiring as to the information and data, etc., available in connection with proposed regulation of stock brokerage houses and exchanges upon which securities and commodities are traded in. Some time ago I caused to be introduced in the New York State Legislature a bill having that in mind, the general plan of such bill being a compulsory licensing of all such brokerage businesses and exchanges, and their supervision by our State superintendent of banks along the lines of our present banking laws. It was my thought that regular access should be had to the books of all such businesses by public officials who are competent to detect any fraud being perpetrated in connection therewith. It was to be a crime to do business in the State as a broker or in connection with a stock exchange unless a license had been first procured. The license, of course, could be revoked by that branch of the government issuing the same, upon proper cause for such revocation being shown, such cause being fraudulent and unsafe practices, insufficient capital, etc. The statutes in most States which make felonies of certain practices in connection with the brokerage business are involved and especially designed, apparently, to make it difficult to obtain proof without granting immunity to those who should be punished.

I have before me as I write a list of more than a hundred brokerage houses ranging from members of the New York Stock Exchange down to those of the New York Curb Market and nonmembers of any exchange, all of which have failed with liabilities approximately 100 times greater than their nebulous assets, and though many of them have been indicted and convicted there are a greater number who can never be reached because of the inadequacy of our statutes. The principal methods utilized by brokers in defrauding their customers consisted of various devices for retaining "margins" or collateral—which, after all, are the only property that comes into the hands of brokers. These devices may be grouped into three classes. The first is what is ordinarily known as "bucketing"; in such a case, when an order is given by a customer to a broker to purchase, upon credit or margin, certain securities for the customer's account, the broker simply sends the customer a memorandum to the effect that the order has been executed, when in fact such order has never been executed. The result is that the margin or collateral forwarded to the broker by the customer remains in the possession of the broker, who waits until a slump occurs in the ever-fluctuating stock market. He thereupon advises the customer that the customer has been sold out; and pockets the margin or disposes of the collateral. Of course, in practice, the crooked broker disposes of the margin and collateral immediately upon its receipt by him. If the customer has given an order to sell "short" the converse of the proposition is true; and the broker waits for a rise in the market and then informs the customer that the customer's margin or collateral is forfeited because of the turn the market has taken.

On the other hand, if in the case first mentioned the market never takes a slump but continues to rise—or, in the latter case, the market never takes a rise and continues to fall—the broker who has not executed the orders in question for his customer, when called upon to deliver the securities he is supposed to have purchased, or money received, for such customer, is unable to do so and must go into bankruptcy.

The second and more common device utilized by brokers is trading against the orders of their customers. In such case the broker goes through the form of executing the order, but immediately, through dummy accounts known as "house accounts," offsets the execution of such order by a contrary execution for such dummy or "house account." In other words, if the customer gives the broker an order to purchase certain shares of stock upon margin, the broker who adopts the device just mentioned will actually purchase and carry out the order. Immediately thereafter, however, he will sell for the dummy house account—that is, for himself—a like amount and the same kind of stock at approximately the same price. In such case, because of the clearing-house system, no actual delivery of any stock does take place, and precisely the same result is accomplished as in the case of a straight "bucket"; so that here, too, the broker is in the same situation as he was in connection with his customer's margin or collateral as in the case of a "bucket."

A third device is what is known as utilizing the customer's securities as collateral in the broker's "general loan" with some other brokerage house or a bank, which is substantially the same thing as selling out the customer's collateral. Our State statutes seem to have a prohibition against this in cases where the broker holding stocks as collateral in margin accounts does not carry on hand at all times sufficient stock of the same kind to return to the customer should the customer demand it and tender what is due. But the broker evades this law by keeping on hand just enough of a particular kind of stock as will represent the largest amount pledged with him. Thus if "A," "B," and "C" are customers of a broker and "A" leaves with him 100 shares of Standard Oil Co. of New Jersey as security for margin account, and "B" leaves 50 shares of the same stock, and "C" leaves 25 shares of the stock in the same way, the crooked and law-evading broker does not carry on hand 175 shares of such stock but only 100 shares. So that if either "A" or "B" or "C" should make demand upon him the amount that such broker will have on hand will equal any amount which either of the three is entitled to get back. The broker will sell, dispose of, or repledge for his own use the other 75 shares of stock with perfect impunity, because it is impossible to prove under existing laws that the 100 shares of stock kept is not to be applied to either one of the three customers upon a demand for the return thereof.

These three situations occur in the vast majority of crooked brokerage failures and could all be discovered and prevented if some responsible public official had access to and would periodically examine the books of these brokers. The mere organization of a stock exchange and the passage of rules by its board of governors does not and can not remedy the evils of such a situation. A concrete example of this is the New York Consolidated Stock Exchange where, apparently, a ring of dishonest brokers were in a position to cooperate in their dealings through the very existence of such exchange, and as a result of which customers lost untold millions. The principal business on the New York Curb Exchange for many years was done by a brokerage house which recently failed and was a member of that exchange; and which, in turn, controlled and employed a number of separate members of the exchange, apparently having no connection with the said large brokerage house, but, in fact, being utilized by it as a means of accomplishing the very frauds pointed out above.

Practically all brokerage business is transacted through the use of the mails and interstate telegraph and telephone service. And therein lies the means of controlling stock exchanges and brokers. In addition to the foregoing suggestions, it seems to me that if the Federal Government passed a law making it presumptive evidence of the concealment of assets for persons who are engaged in the brokerage business to fail without keeping a full and complete set of understandable books, and barring use of mails, etc., to those who do not keep such books something could be accomplished toward recovering moneys lost by customers. So, too, if it were made a presumptive rule of evidence that brokers who carry margin accounts for other brokers are presumed to

know that securities used as margin in such accounts are in fact the securities of customers, a great deal could be done to stop brokers gambling with customers' property. The Pujo committee, in 1914, as you will doubtless recall, urged the regulation of exchanges and brokers by means of the Government's right to control the use of the mails and interstate commerce via telephone and telegraph.

I trust what I have indicated above meets what you have in mind in writing your letter of September 12, 1923.

Respectfully yours,

JOAB H. BANTON,
District Attorney.

Mr. KING. The resolution which I offered is pending before the Finance Committee. I shall press for favorable action, believing that the situation calls for an investigation of the exchanges now operating in the United States. After the committee has acted, or if it shall fail to favorably report the resolution, I shall ask the attention of the Senate to a further discussion of this important subject and shall suggest some legislation which may mitigate somewhat the evils which are so apparent. Undoubtedly the States could and should deal more effectively with the evils referred to by District Attorney Banton and those which I have casually alluded to. I recognize that the field of the Federal Government, in dealing with exchanges and bucket shops and the gambling and speculative evils so common in connection with grain, commodity, and stock exchanges in the United States, is limited; and, with my great respect for the rights of the States, I would be the last one to recommend legislation which infringed the police powers or the sovereign rights of the States.

I have prepared a bill which deals with exchanges engaged in interstate commerce transactions and which denies the use of the mails to those engaged in certain interstate transactions. I have been urged by many who have given attention to the subject now under discussion to seek legislation placing stock and other exchanges which deal in interstate stocks, bonds, and commodities under the control of the Federal Government. Many have suggested that all corporations and individuals so engaged should obtain licenses from the Federal Government and be subject to inspection and examination as national banks are examined by Federal agencies. The suggestion has also been made that the Federal Government should deal with these interstate transactions by imposing a tax upon every sale, whether of commodity or stocks or bonds, where the vendor did not have the commodity or stock or bond and where there was not delivery accompanying the sale. I have preferred, however, to wait until after a committee has made the investigation called for by my resolution before submitting legislation.

I have not attempted to call attention to the evils that are found in the commodity exchanges and in the grain exchanges. Reference has been made in the discussion this afternoon concerning cotton to the fact that, as I recall, 70,000,000 bales were alleged to have been bought and sold on the cotton exchanges in the United States in a given year, whereas the entire product was less than 10,000,000 bales.

Mr. CARAWAY. Permit me to call the Senator's attention to the fact that after looking this matter up a little further I find that in 1922 they sold on the three exchanges 224,000,000 bales, as against a production of between seven and eight million.

Mr. KING. That confirms the observation which I made when I interrupted the Senator from Louisiana [Mr. RANSDELL], and indicates that the evil was greater than was indicated by the Senator from South Carolina.

I can not assent to the proposition which is implied in the remarks of the Senator from Louisiana [Mr. RANSDELL] that these exchanges, with the gambling and speculation which they encourage and which they continue, are of such importance to the people of the United States. There is not a stock exchange that adds a penny of wealth to the country. There is not a cotton exchange or grain exchange that grows a pound of cotton or a grain of wheat. But thousands of speculators live in luxury, live in affluence and in wealth, which they have wrung by their gambling and by their speculation from the laboring men and from the toilers on the farms and the plantations of our country.

It does seem to me that this evil rises to such heights as to demand the attention of the Federal Government. I sincerely hope that my resolution may be reported and that a comprehensive investigation may be made, with a view of determining whether the field is one which should engage the attention of the Federal Government and call for remedial legislation.

VOTE ON NOMINATION OF WALTER L. COHEN.

Mr. JONES of Washington. Mr. President, I desire to present a notice which I want to give of a motion to suspend a part of Rule XXXVIII.

The PRESIDENT pro tempore. The notice will be read.

The reading clerk read as follows:

I hereby give notice that after one day from the presentation of this notice and as soon thereafter as possible, I shall move to suspend that part of paragraph 2 of Rule XXXVIII, embraced in the first sentence of said paragraph 2, for the purpose of moving that the injunction of secrecy be removed from the vote on the confirmation of the nomination of Walter L. Cohen, and that the vote on said nomination be printed in the CONGRESSIONAL RECORD.

The PRESIDENT pro tempore. The notice will lie on the table.

CONDITION OF RAILROAD EQUIPMENT.

The PRESIDENT pro tempore laid before the Senate a communication from the chairman of the Interstate Commerce Commission, transmitting, pursuant to law, a report for the month of January, 1924, showing the condition of railroad equipment and related information, which was referred to the Committee on Interstate Commerce.

EDWIN DENBY, SECRETARY OF THE NAVY.

The PRESIDENT pro tempore laid before the Senate a communication from Walter C. Clephane, on behalf of the District of Columbia Chapter, Military Order of the World War, transmitting a resolution adopted by the chapter, which, with the accompanying resolution, was ordered to lie on the table and to be printed in the RECORD as follows:

DISTRICT OF COLUMBIA CHAPTER,
MILITARY ORDER OF THE WORLD WAR,
Washington, D. C., February 16, 1924.

To the honorable the PRESIDENT OF THE UNITED STATES SENATE:

DEAR SIR: I have been directed by the District of Columbia Chapter of the Military Order of the World War to transmit to you a copy of a resolution passed by that chapter on February 13, 1924, the same being inclosed herewith.

Very truly yours,

WALTER C. CLEPHANE.

DISTRICT OF COLUMBIA CHAPTER,
MILITARY ORDER OF THE WORLD WAR,
Washington, D. C.

Whereas the reputation and integrity of a companion of this order, the Hon. Edwin Denby, Secretary of the Navy, have been attacked in Congress in an exceptionally conspicuous manner, accompanied by a demand for his resignation as a member of the President's Cabinet; and

Whereas the President of the United States, in language as plain as it was forceful, has emphasized the fact that the National Constitution prescribes an orderly procedure for the ascertainment of, and punishment for, such guilt as that with which the Secretary of the Navy has been branded, and that this public condemnation of him has been made without regard to the settled processes of the law; and

Whereas this organization, as a patriotic body, is pledged to maintain and uphold the Constitution and laws of the United States, and is unalterably opposed to any action by any individual or body of men, however exalted, which seeks to condemn and punish without giving to the accused the protection which is guaranteed to him by law: Now therefore be it

Resolved, That the District of Columbia Chapter of the Military Order of the World War, in meeting assembled this 13th day of February, 1924, place itself upon record as heartily approving the stand taken by the President of the United States in ignoring the demand made upon him to sacrifice an officer of the United States Government and to punish him for an action of such a character that, under the laws of the land, no penalty can properly be inflicted without complete proof of guilt; and be it further

Resolved, That a committee from this chapter be appointed by the commander thereof to convey in person copies of these resolutions to the President of the United States and the honorable the Secretary of the Navy, and that a copy be also sent to the President of the Senate of the United States.

ENNALLS WAGGAMAN, *Commander.*
JAMES O. PORTER, *Adjutant.*

PETITIONS AND MEMORIALS.

Mr. McKINLEY presented memorials, numerously signed, of members of the Santa Fe Supervisors' Association and of the shop associations of the Atchison, Topeka & Santa Fe Railway system, of Chicago, Ill., remonstrating against the making of any substantial changes in the transportation act of 1920, which were referred to the Committee on Interstate Commerce.

Mr. CAPPER presented a petition of sundry citizens of Medicine Lodge, Kans., praying for the enactment of legislation repealing the so-called war and nuisance taxes, especially the tax on industrial alcohol, which was referred to the Committee on Finance.

He also presented memorials, numerously signed, of members of shop associations of the Atchison, Topeka & Santa Fe Railway system, of Arkansas City, Kans., remonstrating against the making of any substantial changes in the transportation act of 1920, which were referred to the Committee on Interstate Commerce.

Mr. WILLIS presented a resolution adopted by the Retail Merchants' Division of the Chamber of Commerce, of Mansfield, Ohio, favoring adoption of the so-called Mellon plan of tax reduction, which was referred to the Committee on Finance.

He also presented a petition of sundry citizens of Dayton, Ohio, praying for the passage of legislation removing the excise taxes on taxicabs for hire, on tires, inner tubes, parts, and accessories therefor, and to reduce the tax on taxicabs from 5 per cent to 3 per cent, which was referred to the Committee on Finance.

He also presented a resolution of the council of the city of Toledo, Ohio, favoring the granting of adjusted compensation to veterans of the World War, which was referred to the Committee on Finance.

He also presented a resolution of Cincinnati (Ohio) Post, No. 270, the American Legion, favoring the classification of nurses by the Federal Government as being in the professional service, which was referred to the Committee on Civil Service.

Mr. ROBINSON presented a letter in the nature of a petition from Herman Day, of Chevy Chase, Md., praying that an investigation be had of the United States Botanic Garden, which was referred to the Committee on the Library.

He also presented resolutions adopted by Frank Fried Post, No. 18, American Legion, Department of Arkansas, of Mena, Ark., favoring the prompt passage of legislation granting adjusted compensation to veterans of the World War, which were referred to the Committee on Finance.

He also presented resolutions adopted by Victor Ellig Post, No. 31, the American Legion, of Fort Smith, Ark., urging that an apology be demanded of the German Government and the German ambassador recalled for his failure to order promptly the flag half-masted as an act of respect on the occasion of the death of former President Woodrow Wilson, which were referred to the Committee on Foreign Relations.

REPORTS OF THE COMMERCE COMMITTEE.

Mr. LADD, from the Committee on Commerce, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 2420) granting the consent of Congress to the State of South Dakota for the construction of a bridge across the Missouri River between Potter County and Dewey County, S. Dak. (Rept. No. 164);

A bill (S. 2436) granting the consent of Congress to the Board of Supervisors of Leake County, Miss., to construct a bridge across the Pearl River in the State of Mississippi (Rept. No. 165);

A bill (S. 2437) granting the consent of Congress to the Board of Supervisors of Leake County, Miss., to construct a bridge across the Pearl River in the State of Mississippi (Rept. No. 166); and

A bill (S. 2446) granting the consent of Congress to the Clarks Ferry Bridge Co. and its successors to construct a bridge across the Susquehanna River at or near the railroad station of Clarks Ferry, Pa. (Rept. No. 167).

ENROLLED BILL AND JOINT RESOLUTION PRESENTED.

Mr. WATSON, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States the following enrolled bill and joint resolution:

S. 2249. An act to extend for nine months the power of the War Finance Corporation to make advances under the provisions of the War Finance Corporation act, as amended, and for other purposes; and

S. J. Res. 71. Joint resolution directing the Secretary of the Interior to institute proceedings touching sections 16 and 36, township 30 south, range 23 east, Mount Diablo meridian.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SIMMONS:

A bill (S. 2560) granting the Fort Macon (N. C.) Military Reservation to the State of North Carolina; to the Committee on Military Affairs.

By Mr. CAPPER:

A bill (S. 2561) to provide further for the national security and defense; to the Committee on Military Affairs.

A bill (S. 2562) for the relief of William Hensley; to the Committee on Claims.

By Mr. McNARY:

A bill (S. 2563) to provide for the purchase and acquirement by the United States of certain lands within or adjoining the Superior National Forest, in the counties of Cook and Lake and that part of St. Louis County north of township 53 north and east of range 18 west of the fourth principal meridian, in the State of Minnesota; to the Committee on Public Lands and Surveys.

By Mr. SWANSON:

A bill (S. 2564) granting a pension to Dr. H. W. Judd; to the Committee on Pensions.

By Mr. DILL:

A bill (S. 2565) to authorize acquisition of unreserved public lands in the Columbia or Moses Reserve, State of Washington, under acts of March 28, 1912, and March 3, 1877, and for other purposes; to the Committee on Public Lands and Surveys.

By Mr. McKELLAR:

A bill (S. 2566) granting a pension to Mary A. Huckaba (with accompanying papers); to the Committee on Pensions.

A bill (S. 2567) to provide for the acquisition of a site and the erection thereon of a public building at Ripley, Tenn. (with accompanying papers); to the Committee on Public Buildings and Grounds.

By Mr. COPELAND:

A bill (S. 2568) for the relief of the owners of the steam tug *Joshua Lovett;* and

A bill (S. 2569) for the relief of Walter S. Holbrook, as managing owner of the steam tug *Crescent;* to the Committee on Claims.

By Mr. JONES of Washington:

A bill (S. 2570) to provide for the establishment, operation, and maintenance of foreign trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes; to the Committee on Commerce.

By Mr. WILLIS:

A bill (S. 2571) to extend the provisions of certain laws to Porto Rico;

A bill (S. 2572) to purchase grounds, erect and repair buildings for customhouses, offices, and warehouses in Porto Rico; and

A bill (S. 2573) to amend and reenact sections 20, 22, and 50 of the act of March 2, 1917, entitled "An act to provide a civil government for Porto Rico, and for other purposes"; to the Committee on Territories and Insular Possessions.

By Mr. BURSUM:

A bill (S. 2574) granting a pension to Patricia S. de Gallego; to the Committee on Pensions.

By Mr. McKINLEY:

A bill (S. 2575) for the promotion of certain officers of the United States Army now on the retired list; to the Committee on Military Affairs.

By Mr. REED of Pennsylvania:

A bill (S. 2576) to limit the immigration of aliens into the United States, and for other purposes; to the Committee on Immigration.

By Mr. REED of Pennsylvania (by request):

A bill (S. 2577) for the relief of the estate of Richard W. Meade, deceased; to the Committee on Claims.

By Mr. ASHURST:

A bill (S. 2578) authorizing the completion of the diversion dam and irrigation system on the Gila River Indian Reservation, Ariz.; to the Committee on Appropriations.

By Mr. JONES of New Mexico:

A bill (S. 2579) for the relief of John H. Easley; to the Committee on Claims.

By Mr. BRANDEGEE:

A bill (S. 2580) authorizing each of the judges of the United States district court for the district of Hawaii to hold sessions of said court separately at the same time; to the Committee on the Judiciary.

By Mr. WADSWORTH:

A joint resolution (S. J. Res. 83) for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers; to the Committee on Military Affairs.

AMENDMENT TO INTERIOR DEPARTMENT APPROPRIATION BILL.

Mr. NORBECK submitted an amendment providing that the offices of register and receiver at the Rapid City, S. Dak., land office be not consolidated, intended to be proposed by him to House bill 5078, the Interior Department appropriation bill, which was ordered to lie on the table and to be printed.

Mr. JONES of Washington. Mr. President, I have had occasion to try to find some information with reference to voting at elections and to ascertain to what extent people neglect this privilege or avail themselves of it. I think one of the serious menaces to the country is the indifference of the people to elec-

tion day. In my investigation I found an article by Ashmun Brown in the Providence (R. I.) Journal of September 2, 1923, that gives some very concrete and definite data along this line. I think in order to be made available it should be placed in the RECORD, and I ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER (Mr. MOSES in the chair). Is there objection? The Chair hears none, and it is so ordered.

The article referred to is as follows:

[Ashmun Brown in the Providence Journal of September 2, 1923.]

Government by "organized minorities," government by blocs and groups are subjects to which publicists have been directing their attention in increasing numbers during the past year. The result of this sort of government, as reflected in increased taxes and multiplication of public officers and employees, has been vividly portrayed. But beyond quoting approximate and estimated figures, those engaged in the efforts to call public attention to the facts have not presented in detail the fundamental cause of the rise of minority power over governmental affairs.

That fundamental cause is that considerably more than 50 per cent of the American citizens entitled to vote at elections habitually refrain from voting. And this in a country whose sovereignty lies in the citizenship.

As revealed by the census of 1920, there are in the 48 States of the Union a total of 54,128,895 citizens, males and females, 21 years of age and over. This is the maximum figure of the country's voting population. In 1920 only 26,657,574, or much less than half, participated in the presidential election. The total of all the votes cast for Senators and Representatives in Congress in the election of November, 1922, was only 20,579,191. In other words, in this last general election less than 2 out of every 5 voters went to the polls.

A bulletin of the National Civic Federation is responsible for the statement that "at the last election in England 80 per cent of the votes were cast, and in that of Germany 89 per cent."

In an accompanying table is set forth in consolidated form the first analysis ever published of the voting habits, by States, of the American people as demonstrated in the two latest national elections.

In the table are set forth the numbers of males and females 21 years of age and over, citizens found in each State by the census of 1920, together with the total number of votes cast in those States in the elections of 1920 and 1922, with the percentages of the votes cast to the total voting population. These are the facts at the bottom of any accurate appraisement of the exact situation.

It will be observed that the voting habits of the American people vary remarkably in the different States. It is natural, of course, that the Southern States should be found low down in the scale in point of percentages, at least. This is primarily because the heavy negro population of those States does not make a practice of voting. But it must be apparent that the absence of the negro vote from the polls is far from being the only cause for the small votes cast in Southern States. The negro, for example, is not to be held solely responsible for the fact that South Carolina, with a possible vote of 776,960, cast only 66,150 in 1920 and 35,130 in 1922. Many thousands of whites were voting "slackers."

On the basis of the 1920 vote the rank of the several States in order of excellence of voting habits is set forth in the following table, the percentages for 1922 also being included for comparison's sake:

Per cent voted for President in 1920 and in congressional election, 1922.

		1920	1922
		Per cent.	*Per cent.*
1	Delaware	75.0	58.8
2	Indiana	74.1	63.6
3	Kentucky	71.8	28.4
4	West Virginia	71.7	54.6
5	Utah	70.4	58.3
6	North Dakota	70.2	66.1
7	Missouri	67.5	49.5
8	New Hampshire	67.4	53.9
9	Iowa	65.3	45.2
10	Nevada	62.6	66.5
11	Ohio	62.5	48.3
12	New Mexico	62.3	65.0
13	Montana	62.1	54.7
14	Idaho	61.5	55.0
15	Illinois	60.3	40.3
16	Minnesota	59.4	55.8
17	New Jersey	59.2	53.4
18	Rhode Island	58.0	55.0
19	Kansas	57.9	55.4
20	Connecticut	57.7	51.2
21	South Dakota	56.2	49.9
22	Colorado	56.1	51.0
23	Nebraska	55.7	56.4
24	Michigan	55.5	31.5
25	Wyoming	54.3	60.8
26	Massachusetts	53.3	46.9
27	Oregon	52.9	40.0
28	New York	52.7	49.5
29	Washington	52.6	39.4
30	Wisconsin	52.2	41.6
31	Maryland	52.2	37.4
32	California	48.9	47.0
33	Oklahoma	48.2	46.0
34	Arizona	47.3	43.4
35	Maine	46.9	41.7
36	Vermont	45.2	35.4
37	North Carolina	44.6	30.2
38	Pennsylvania	42.7	33.3
39	Tennessee	35.4	18.4
40	Florida	28.9	10.2
41	Alabama	22.1	10.0
42	Arkansas	20.8	3.8
43	Virginia	19.3	13.6
44	Texas	18.5	17.7
45	Louisiana	14.0	4.9
46	Georgia	10.5	5.5
47	Mississippi	9.4	7.8
48	South Carolina	8.5	4.5

Per cent voted for President in 1920 and in congressional election, 1922—Continued.

This failure of the people to participate in the election of their responsible Government officers is shown in startling fashion in a review of the senatorial elections of last November. In the following table is presented the names of the Senators then elected, the total number of votes cast for each, and the percentage that total bears to the voting population of the States wherein the election was held:

Senators elected in 1922 and the number of votes received by each, etc., and the percentage of that number to the States' voting population.

State.	Name.	Party	Vote.	Per-centage.
Arizona	H. F. Ashurst	Democrat	39,722	25.3
California	H. W. Johnson	Republican	564,422	29.2
Connecticut	G. P. McLean	do	169,524	26.8
Delaware	T. F. Bayard	Democrat	37,304	29.5
Florida	Park Trammell	do	45,707	9.0
Georgia	W. F. George	do	75,838	5.3
Indiana	S. M. Ralston	do	558,169	32.8
Iowa	S. W. Brookhart	Republican	389,751	28.5
Maine	Frederick Hale	do	101,023	23.9
Maryland	Wm. C. Bruce	Democrat	160,947	19.7
Massachusetts	Henry C. Lodge	Republican	414,130	22.3
Michigan	W. N. Ferris	Democrat	294,932	15.7
Minnesota	Henrik Shipstead	Farmer-Labor.	325,372	26.3
Mississippi	H. D. Stephens	Democrat	63,639	7.3
Missouri	J. A. Reed	do	506,264	25.6
Montana	B. K. Wheeler	do	88,205	30.4
Nebraska	R. B. Howell	Republican	220,350	32.1
Nevada	Key Pittman	Democrat	18,200	41.9
New Jersey	Edw. I. Edwards	do	451,832	29.7
New Mexico	A. A. Jones	do	60,969	36.1
New York	R. S. Copeland	do	1,276,667	24.9
North Dakota	L. J. Frazier	Republican	101,312	34.5
Ohio	Simeon D. Fess	do	794,159	24.6
Pennsylvania	David A. Reed	do	860,483	19.9
Do	G. W. Pepper	do	819,507	18.9
Rhode Island	Peter G. Gerry	Democrat	82,889	28.7
Tennessee	Kenneth McKellar	do	151,523	12.5
Texas	E. B. Mayfield	do	264,260	11.8
Utah	W. H. King	do	58,749	28.3
Vermont	F. L. Greene	Republican	47,669	24.0
Virginia	Claude A. Swanson	Democrat	116,393	9.7
Washington	C. C. Dill	do	130,347	17.0
West Virginia	M. M. Neely	do	198,853	27.9
Wisconsin	R. M. La Follette	Republican	379,494	28.3
Wyoming	J. B. Kendrick	Democrat	35,734	34.5
Total			9,904,333	

Of course, there must be deducted from the figure of 54,182,895 potential voters those who are disqualified by criminality, insanity, or mental deficiency. It is impossible to say, with any degree of accuracy, what these deductions should be. The only guide to the figure of those disqualified by criminality is an uncertain one. It is a census bulletin of November 22, 1922, which found that on July 1 of that year the total number of prisoners in all the penitentiaries, county jails, State and county chain or road gangs, city police stations, and other penal institutions, was 163,889, but a very large number of these were aliens, who under no circumstances would be entitled to vote. The latest estimate of the number of insane and feeble-minded in the country is a figure of about 225,000, but this also includes aliens.

As an offset, the census shows that in 1920 there were in the District of Columbia 132,988 males, and 159,949 females, 21 years of age and over, citizens, a total of 292,937, not included in the voting population of 54,128,895 of the 48 States. Still, many thousands of these have voting residences in States and make a practice to go there on election day to vote. In 1920 it was estimated that at least 30,000 of them went home to vote.

Then to recur to the practical disfranchisement of the negro: The census shows that there were in 1920 only 5,532,406 negroes of voting age in the entire country, of whom 2,792,006 were males and 2,730,400 were females. Of these, only 1,060,940 live in the Southern Atlantic States, the heaviest center of negro population in the country, and the remainder is divided. But even assuming that the entire negro population of the country was disfranchised, it still would be found that the total number of voters who went to the polls last November is far below 50 per cent of the country's voting strength.

State.	Voting population.			Voted for President, 1920.	Per cent voted, 1920.	Voted congressional election, 1922.	Per cent voted, 1922.
	Male voters.	Female voters.	Total voters.				
Alabama	568,886	566,643	1,135,529	241,070	22.1	113,610	10.0
Arizona	80,387	60,431	140,818	66,687	47.3	61,080	43.4
Arkansas	448,497	413,078	861,575	180,603	20.8	32,932	3.8
California	998,095	930,152	1,928,247	943,344	48.9	907,900	47.0
Colorado	274,921	244,993	519,914	292,053	56.1	265,628	51.0
Connecticut	309,143	321,451	630,594	364,012	57.7	322,961	51.2
Delaware	64,232	62,001	126,233	94,756	75.0	74,429	58.8
Florida	262,751	243,909	505,660	146,823	28.9	51,781	10.2
Georgia	707,198	707,574	1,414,772	148,724	10.5	78,669	5.5
Idaho	122,475	97,705	220,180	134,941	61.5	121,153	55.0
Illinois	1,754,451	1,708,428	3,462,879	2,090,468	60.3	1,708,845	49.3
Indiana	860,834	841,818	1,702,652	1,262,398	74.1	1,082,727	63.6
Iowa	700,356	666,856	1,367,212	894,094	65.3	617,584	45.2
Kansas	509,133	474,414	983,547	570,220	57.9	544,854	55.4
Kentucky	651,260	627,158	1,278,418	918,711	71.8	363,431	28.4
Louisiana	453,051	443,827	896,878	125,892	14.0	44,180	4.9
Maine	210,236	210,798	421,034	197,530	46.9	175,686	41.7
Maryland	408,887	408,867	817,754	427,264	52.2	305,916	37.4
Massachusetts	888,782	966,468	1,855,250	990,109	53.3	870,148	46.9
Michigan	984,716	896,881	1,881,597	1,045,280	55.5	582,979	31.5
Minnesota	648,433	588,770	1,237,203	735,838	59.4	690,834	55.8
Mississippi	438,733	433,361	872,094	82,492	9.4	68,544	7.8
Missouri	998,139	970,947	1,969,086	1,330,636	67.5	976,362	49.5
Montana	163,057	126,774	289,831	179,004	62.1	158,737	54.7
Nebraska	358,789	327,558	686,347	382,653	55.7	387,691	56.4
Nevada	26,195	17,224	43,419	27,212	62.6	28,871	66.5
New Hampshire	116,059	119,407	235,466	158,744	67.4	127,037	53.9
New Jersey	756,600	768,590	1,525,190	904,000	59.2	814,531	53.4
New Mexico	92,254	76,354	168,608	105,131	62.3	109,690	65.0
New York	2,521,382	2,587,163	5,108,545	2,895,524	52.7	2,526,781	49.5
North Carolina	601,422	605,921	1,207,343	538,740	44.6	365,166	30.2
North Dakota	159,262	133,568	292,830	205,777	70.2	193,776	66.1
Ohio	1,639,619	1,588,675	3,228,294	2,019,480	62.5	1,560,231	48.3
Oklahoma	538,299	466,217	1,004,516	484,574	48.2	467,827	46.0
Oregon	240,083	210,484	450,567	238,522	52.9	180,292	40.0
Pennsylvania	2,158,549	2,168,185	4,326,734	1,849,692	42.7	1,442,485	33.3
Rhode Island	138,721	149,839	288,560	167,386	58.0	158,889	55.0
South Carolina	387,149	389,820	776,969	66,150	8.5	35,130	4.5
South Dakota	174,486	147,397	321,883	181,118	56.2	160,776	49.9
Tennessee	605,445	602,774	1,208,219	428,626	35.4	222,723	18.4
Texas	1,169,423	1,064,431	2,233,854	413,522	18.5	395,004	17.7
Utah	106,448	100,681	207,129	145,828	70.4	120,812	58.3
Vermont	99,440	99,173	198,613	89,930	45.2	70,331	35.4
Virginia	603,898	588,652	1,192,550	231,001	19.3	161,923	13.6
Washington	406,087	340,871	746,958	393,594	52.6	294,469	39.4
West Virginia	373,288	337,596	710,884	509,942	71.7	388,794	54.6
Wisconsin	689,048	652,933	1,341,981	701,280	52.2	470,433	41.6
Wyoming	60,293	43,186	103,479	56,199	54.3	62,973	60.8
Total	27,528,892	26,600,003	54,128,895	26,657,574	.....	20,579,191	.....

SOURCES: Figures on voting population taken from bulletin of United States Bureau of the Census on "Men and Women of Voting Age," issued October, 1921, showing numbers of males and females, 21 years of age and over, citizens, as disclosed by census of 1920. Figures on presidential popular vote in 1920 taken from World Almanac. Figures on congressional vote, 1922 (Senators and Representatives), taken from compilation from official sources made by William Tyler Page, Clerk of the House of Representatives. Percentages worked out from above.

INTERIOR DEPARTMENT APPROPRIATIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 5078) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1925, and for other purposes.

Mr. OVERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Adams	Ernst	Kendrick	Reed, Pa.
Ashurst	Ferris	King	Robinson
Ball	Fess	Ladd	Sheppard
Borah	Fletcher	La Follette	Shields
Brandegee	Frazier	Lenroot	Shipstead
Brookhart	George	McKellar	Simmons
Broussard	Gerry	McKinley	Smith
Bursum	Glass	McNary	Smoot
Cameron	Gooding	Mayfield	Spencer
Capper	Hale	Moses	Stanley
Carraway	Harreld	Neely	Stephens
Copeland	Harris	Norris	Swanson
Cummins	Harrison	Oddie	Trammell
Curtis	Heflin	Overman	Walsh, Mass.
Dial	Howell	Owen	Warren
Dill	Johnson, Minn.	Phipps	Wheeler
Edge	Jones, N. Mex.	Pittman	Willis
Edwards	Jones, Wash.	Ransdell	

The PRESIDENT pro tempore. Seventy-one Senators have answered to their names. A quorum is present.

HOWARD UNIVERSITY.

Mr. OVERMAN. Mr. President, when the pending bill was first called up and consideration was given to it some 10 days ago, I gave notice that I would make a point of order as to the whole bill and ask that it be sent back to the committee. I find an item in the bill against which a point of order will doubtless lie. I am a member of the committee myself. The great Committee on Appropriations has added $700,000 as a gratuity to a private institution. Think of that! The House allowed $157,000 and this great committee of the Senate, on this particular item, like drunken sailors, have given a private institution $700,000 more than the House gave it. A subcommittee by 1 vote and the full committee by 1 vote approved the item. I am glad to say that the senior Senator from Utah [Mr. SMOOT], who has charge of the bill on the floor of the Senate, voted against the item. I do him the credit to say that he did that. It was approved by only 1 vote.

The point I make is that $370,000, found in the item on page 102 of the committee print of the bill, was added for the purpose of building a medical school and $130,000 for equipping a medical school in this city. When Senators from States like West Virginia, Washington, and other States are trying to get public buildings which are absolutely needed for post offices, here is a committee of the Senate giving $500,000 for this private purpose. When the Senator from Utah [Mr. SMOOT] stands up here and makes a valuable report showing that $5,000,000 is needed to erect necessary Government buildings in the city of Washington, we hear nothing further about it; but for a private institution we are asked now to appropriate $500,000, and that for the building and equipment of a private institution.

Mr. STANLEY. Mr. President, did not the committee have hearings and was there not propaganda brought to the attention of the committee that the appropriation was needed for some altruistic purpose?

Mr. OVERMAN. The House committee had hearings and then turned the item down.

Mr. STANLEY. Then the Senate committee probably had more propaganda coming before it and turned the item up.

Mr. OVERMAN. I am not a member of the subcommittee. I suppose they had private hearings. I am a member of the main committee, and opposed the item there, and I am glad to say that it was only sustained in the full committee by a majority of 1 vote.

I call attention to page 20 of the Senate rules, paragraph 2, Rule XVI. This question has never been raised in the Senate,

and therefore it is a very important question and ought to be decided right, because it is going to establish a precedent. I say that the Committee on Appropriations has no right to put this item in the appropriation bill, because it never was authorized by Congress. All appropriations ought to be authorized by Congress. The fact that it was estimated for by the Budget makes no difference. The Budget, as I understand and as I shall show by the law creating the Budget, is granted no authority whatever to send down appropriations to Congress that have not been authorized by law, and they ought not to have such authority. If they have, then three men sitting up here in a Government bureau can send to Congress all sorts of appropriations, even $500,000,000 for a railroad to the moon, and what would we think of that? Would that be out of order? It would be just as much out of order as the item which I am discussing.

Under paragraph 1 of the rule it is claimed that it is in order. I call attention to Rule XVI, the second clause of the paragraph, which reads as follows:

> The Committee on Appropriations shall not report an appropriation bill containing amendments proposing new or general legislation, and if an appropriation bill is reported to the Senate, containing amendments proposing new or general legislation, a point of order may be made against the bill, and if the point is sustained the bill shall be returned to the Committee on Appropriations.

Now, what is this legislation? It is legislation. It is bound to be new legislation, because no legislation of the kind is found in any statute. It is new legislation put on by a committee which had no right to do it, and the point of order, I maintain, will lie.

I have before me the law providing for the Budget. I find in that law no authority granted for the Budget to send down to Congress an estimate for an appropriation not authorized by law. Upon that point the law provides that the Bureau of the Budget shall meet at a certain time and estimate the amount of revenues derived from the taxation and otherwise in this Government, and having ascertained the amount of revenues they then shall estimate what is necessary for running the Government, economically administered, and for such sums as are authorized by Congress. They cut the cloth according to the amount of cloth which they have. What authority is there to do what has been done in this instance? I ask any Senator here, the Senator from Utah [Mr. SMOOT] or the Senator from Wyoming [Mr. WARREN], who are so familiar with the subject, or other Senators, to show me where authority has been granted to the Budget to estimate for expenditures not authorized by statute. This item was never authorized by statute. It is new legislation, and I raise the point of order against it.

I may have something further to say about the matter, but I call attention to the fact that we have gone wild on this subject. Even if this were a great national institution, this proposed legislation would not be in order; but it is proposed to make this appropriation for a private institution. It is true that for some years a small amount of money has been appropriated for Howard University, but the House of Representatives decided that $157,000 was sufficient to run the institution if economically administered; and that body voted down every other provision relating to the institution which was reported by the committee. The bill comes over to the Senate in that shape, and the Senate committee now reports to add this enormous amount of money to the pending appropriation bill.

Mr. SMOOT. Mr. President, I had perhaps better call the attention of the Senate to the history of the appropriations which are carried under the heading "Howard University." The first item of appropriation reported by the Committee on Appropriations of the House of Representatives was as follows:

> For maintenance, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the university. * * * $125,000.

The next item was as follows:

> For tools, material, salaries of instructors, and other necessary expenses of the department of manual arts, $30,000.

The next item reads as follows:

> Medical department: For part cost of needed equipment, laboratory supplies, apparatus, and repair of laboratories and buildings, $9,000.

The next item reads:

> For material and apparatus for chemical, physical, biological, and natural-history studies and use in laboratories of the science hall, including cases and shelving, $5,000.

Mr. FLETCHER. Mr. President, may I ask the Senator from Utah for what year were those appropriations to be made?

Mr. SMOOT. For the coming fiscal year of 1925.

Mr. President, these four items which were reported by the Appropriations Committee of the House of Representatives went out in that body on points of order. I wish Senators to understand why that action was taken. These items have been appropriated for Howard University during 30 years or more.

Mr. WARREN. Similar appropriations have been made every year during that time.

Mr. SMOOT. But, Mr. President, Rev. Francis J. Grimke, a trustee of Howard University, in a speech made some remarks which were taken exception to by certain Members of the House of Representatives, and if Senators will turn to the debate in the House they will plainly see why the point of order was made against these four items. I do not think it is necessary to state specifically what was said by Mr. Grimke, but at any rate exception was taken to his statement, and as a consequence the four items went out on points of order in the House of Representatives.

Mr. FLETCHER. What was the ground of the points of order?

Mr. SMOOT. The points of order were based on the ground that the proposed items would increase the appropriation, and under the rules of the other House such points of order are well taken.

Mr. McKELLAR. Mr. President, will the Senator from Utah yield to me?

Mr. SMOOT. Yes.

Mr. McKELLAR. I wish to ask the Senator, if there was no original law for the appropriation, why was the item of $157,500, on page 102, allowed? Was there a special act for that? That appropriation was reported by the House committee and passed by that body, and I was merely wondering why a point of order did not also lie to that appropriation.

Mr SMOOT. The reason the point of order did not lie against that appropriation in the other House was that the last appropriation bill carried an appropriation of $197,500 for that purpose, and the appropriation proposed this year was less than the appropriation carried in existing law.

Mr. McKELLAR. I understand.

Mr. SMOOT. That is why the item did not go out on a point of order.

I shall now refer to the appropriation of $370,000 "for additions to medical school building." That appropriation is not carried in existing law. The other item of $130,000 is "for equipment for additions to medical school buildings," making a total of $500,000. There was no question in the committee about the four items to which I have just referred.

Mr. OVERMAN. I made no point of order against them.

Mr. SMOOT. And the Senator from North Carolina made no point of order against the four items which have been carried in previous appropriation bills. The Senator, however, did call our attention to the item of $500,000 just referred to. A vote of the committee was taken, and, as the Senator has stated, the item was carried and put into the bill on a vote by one majority.

Mr. President, as to the point of order, I can not agree with the Senator from North Carolina that a point of order can lie against this item. The only ground on which the Senator can base a point of order is that the item proposes new legislation, and that Howard University is a private institution and in no way connected with the Government of the United States.

Mr. President, they can go back as far as 1879, when the first appropriation was made for the institution, and learn that since that time there has never been a year without an appropriation being made on the part of the Government for this institution. Howard University has added department after department; it has increased its facilities every year according to the number of students that have been admitted, and no question has ever heretofore been raised.

Mr. STANLEY. Mr. President, will the Senator yield at that point?

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Kentucky?

Mr. SMOOT. Yes.

Mr. STANLEY. I know that Howard University is an excellent institution; I have had that brought to my attention, but is the Senator making the argument that it is a Federal institution because of the fact that it has been the recipient of Federal appropriations?

Mr. SMOOT. Not altogether, I will say to the Senator.

Mr. STANLEY. That is what I wanted to get at.

Mr. SMOOT. I will come to that point right now. In the United States Statutes at Large, volume 30, page 624, we find a law reading, in part, as follows:

That the trustees—

Referring now to Howard University—

shall accord to the Secretary of the Interior authority to visit and inspect the university and supervise the expenditure of appropriations.

Also:

The president and directors shall report to the Secretary of the Interior * * * on the 1st of July of each year—

And so forth.

It seems to me, Mr. President, Congress having directed that such report shall be submitted to the Secretary of the Interior upon the 1st of July of every year and having provided that the trustees must accord to the Secretary of the Interior the authority and right to visit and inspect the university and supervise the expenditure of appropriations, certainly it has placed that institution, at least partially, under the direction of an official of our Government.

Mr. STANLEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield further to the Senator from Kentucky?

Mr. SMOOT. I do.

Mr. STANLEY. Suppose I am running a private school in Kentucky and I want $100,000 out of the Federal Government and I say to Congress, "I will let you send somebody down there to look over my school and supervise my curriculum; I will allow you a referendum on the personnel of my teachers, and permit you to prescribe, if your desire, what shall be the age at which pupils shall enter, how many units shall be required for graduation, what standard of excellence shall qualify a graduate, or to have a voice in any other matter connected with this institution of learning," would that make it a Federal institution?

Mr. SMOOT. No, Mr. President; it would not be a public institution.

Mr. STANLEY. Now let me ask the Senator another question.

Mr. SMOOT. I say it is a public institution, partially, at least, provided the Government makes the appropriation and imposes restrictions.

Mr. STANLEY. The Senator and I are talking about two different things. The point I make is that this is either a public institution or private institution. I care nothing about the appropriation, particularly, for I am not disposed to criticize Howard University; I doubt if there is an institution of its kind in the United States that has given a better account of itself, and I have nothing but the best wishes for it; but the Senator has brought before the Senate—and it ought to be brought before the country—a very important matter to which ex-Governor Frank Lowden, of Illinois, and also Dr. Nicholas Murray Butler have called the attention of the country in recent addresses. There is not a bigger question before the people of the United States to-day. There is not a more pernicious hole in the Treasury than that which is being bored right now. State institutions, educational, eleemosynary, medical, and I could go on and add to the list indefinitely, first get up a propaganda to get the Government to do something such as assisting mothers in maternity, providing Government aid for babies, or Government burial for corpses, or some such thing, and then secure some little provision in an appropriation bill granting an innocent-looking gratuity. It matters not what it may be. Some would start when the infant is ushered into the world and have a trained nurse, appointed by the Government, sit there to supervise the accouchement, and others would have a fellow at hand when they pull the sheet back from your face to ask, "Don't he look natural?" and to supervise the burial. They get a little appropriation and then the Government, in consideration of the appropriation, exercises a little authority over these institutions, either private or State institutions. Thus they sell their birthright for a mess of pottage; and it will not be long under this character of proceeding until the Federal Government will control every school, every medical institution, every college, every hospital, every institution of a quasi public nature in the United States.

Mr. SMOOT. Mr. President, it seems to me rather late in the day to draw the line on Howard University after appropriations have been made for that institution for 45 years. I wish that I had the time at my disposal to call attention to what a wonderful work that institution has done for the colored people. I say that the results of the teaching and activities of that institution have been more valuable to the Government of the United States a hundred times over than all the money that has been appropriated for the institution. Do Senators know what that institution did during the war, how loyal they were to the country, what interest they took in bringing the colored people from one end of the country to the other to a realization that they were fighting for their country and for the institutions of their country?

Mr. STANLEY. Mr. President, if the Senator will yield right there, I agree; and if the Senator will introduce a bill appropriating $1,000,000 as a pure gratuity, just like we gave to the sufferers at San Francisco, I will vote for it. I think highly of the institution. In fact, it is Howard University. That, of course, is in its favor. I am not prejudiced against this great institution, nor am I prejudiced against the people who are the beneficiaries of it because of their color. If I have any prejudice against any of God's creatures because of their color or their race or their religion, I am not conscious of it. I am intolerant only of intolerance; but the thing I am calling attention is not whether we shall appropriate for Howard University. The better the university, I will say to the able Senator from Utah, the better the cause, the more dangerous the precedent. I propose to hit the heads I see. I propose to strike this thing of Federal aggression and the extension of the Federal powers and the squandering of Federal appropriations without the clear warrant of law wherever I see it and wherever it shows its pernicious head, and here is one case. I am going to strike at it in the first place, and at any other university or any other thing that comes in here to trade the control of its own affairs for a Federal appropriation.

Mr. SMOOT. Mr. President, I do not think there is a Senator in this body but that understands the position taken by the Senator from Kentucky in this respect, and I want to say to the Senator that I have a great deal of sympathy with that position; but we have gone far afield. There is not a year but that appropriations are made by Congress reaching to every one of the agricultural colleges in the United States, giving them aid for every possible project affecting public health and public morals; and I do not think that ought to be brought up at this particular time against this worthy institution.

Mr. DIAL. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from South Carolina?

Mr. SMOOT. I do.

Mr. DIAL. I have not examined the financial statement of this institution very carefully, but I think I saw that it was in about as good condition financially as most institutions in the country. Is not that true?

Mr. SMOOT. That is true; but they have a certain amount of income each year, and I want to say to the Senator that that income has not increased as rapidly as the students in the institution have increased.

Mr. DIAL. It is very popular now to ask for endowments for institutions from the friends of the institutions all over the country.

Mr. SMOOT. If Howard University had not done that, there would be no Howard University.

Mr. DIAL. Is not that true of a whole lot of colleges in our section of the country and everywhere else?

Mr. SMOOT. Yes, Mr. President; but I do not know of any other appropriation that is made here directly for the education of the colored people of this country. There are over 10,000,000 of them in the United States. Find in any other appropriation bill, if you please, an item that goes directly to the education of the colored people, outside of the appropriations that go to agricultural colleges where a part of the appriation is used for that purpose.

Mr. STANLEY. Mr. President, what I wish to call the attention of the Senator to is this: In this case as in all the rest we have the Government making an appropriation predicated upon the right of the Government to exercise a certain control over either a State or a private institution. Howard University has been successful in spite of that supervision.

Mr. OVERMAN. Mr. President, may I suggest to the Senator that one of the greatest colored institutions in this country is the one at Tuskegee, Ala. They have a medical school. They have a great school. They have not asked a dollar of the Government. They have a fine school in my town which I have helped to build up with my own money. We did not come to the Congress to ask for an appropriation for that school. There are schools everywhere in the South—fine schools, splendid schools, with splendid buildings, medical schools—that are taking care of the colored man; but does not the Senator think that if an appropriation is desired for any of these schools, it ought to be made by statute?

The PRESIDENT pro tempore. Will the Senator permit the Chair a suggestion? This debate is proceeding at the invitation of the Chair and ought to be confined to the point of order, and should not wander to the merits of the appropriation itself.

Mr. SMOOT. Then, Mr. President, I will just call the Chair's attention to one other matter on this point of order:

The first reference in any statute to any specific land belonging to the Howard University is in the act of June 16, 1882 (22 Stat. 104), which refers to certain land bounded by Pomeroy Street, Four-and-a-half Street, College Street, and Sixth Street, then known as University Park and comprising about 11 acres. By this act the university was authorized to convey the land referred to to the United States for a public park, and in consideration thereof all taxes, penalties, interests, and costs on real and personal property of the university due or to become due and unpaid at the date of the act were remitted; and it was provided that the real and personal property of the university should be exempt from taxation so long as the property was used for the purposes set forth in the charter of the institution, except that real estate of the university should be subject to assessment for special improvements authorized by law.

Mr. President, of course the Senate can vote against this appropriation and vote it out, but I do not believe that the point of order can lie against the amendment.

I do not know that I need say anything further. This institution certainly has a direct connection with the Government, and it certainly is a quasi government institution; and the appropriations for 45 years, it seems to me, ought at least to be taken into consideration at this particular time.

Mr. JONES of Washington. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Washington?

Mr. SMOOT. I do.

Mr. JONES of Washington. I do not know whether the Senator has brought it out or not; but, as I understand, this item is estimated for by the Bureau of the Budget.

Mr. SMOOT. Oh, I so stated, Mr. President. I stated in my opening remarks that this was estimated for by the Budget; that it was passed upon by a standing committee of the Senate and reported to the Senate.

Mr. OVERMAN. Mr. President, the Senator is wrong about that. It is not estimated for by any committee of the Senate.

Mr. SMOOT. I did not say it was estimated for by a committee of the Senate. I said it was estimated for by the Budget.

Mr. OVERMAN. The Senator said it had been authorized by a standing committee of the Senate.

Mr. SMOOT. Yes; the Appropriations Committee.

Mr. OVERMAN. Oh, the Appropriations Committee, which made this appropriation. That is the only committee that had anything to do with it.

Mr. SMOOT. That is the only committee that could have anything to do with it.

Mr. OVERMAN. It did not recommend the appropriation. It put it in the bill. It does not come from any other standing committee.

Mr. SMOOT. Then, if the Senator objects to the word "recommendation," I will go still further than that, and say that they voted it in the bill before ever it was reported to the Senate.

Mr. PHIPPS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Colorado?

Mr. SMOOT. Yes; I yield.

Mr. PHIPPS. Is not this item for an addition to an existing building, and not for a separate building and a new feature?

Mr. SMOOT. It is, of course.

Mr. NORRIS. Mr. President——

Mr. JONES of New Mexico. No, Mr. President; it is for an entirely new building.

Mr. SMOOT. It is for a building for the enlargement of the medical department of Howard University.

Mr. McKELLAR and Mr. NORRIS addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Utah yield; and if so, to whom?

Mr. SMOOT. I yield to the Senator from Tennessee.

Mr. McKELLAR. I want to ask the Senator this question: If an item of this kind were not authorized by any law, but were recommended and approved by the Budget, does the Senator still think that it would be in order?

Mr. SMOOT. Under our rules, I think it would.

Mr. McKELLAR. I do not agree with that. I think it depends on whether there was an original law authorizing it. The Senator understands that I am opposed to the Budget anyway. I think it is a useless piece of machinery, and I think that has been demonstrated a number of times. Outside of that, however, I do not think it was ever the intention of Congress to give the Budget the right to dictate to the Congress, or to supply an original law that the Congress ought to pass, in the judgment of the Budget. In other words, if we are going to do that we had better turn over the whole matter to the Budget.

Mr. SMOOT. We have to act under our rules; and I want to say to the Senator, in answer to his suggestion, that I have not any doubt but that if we had had no Budget the appropriation bills for the year 1925, which we are now beginning to consider, would be $500,000,000 more than they will be.

Mr. OVERMAN. Mr. President, did the Budget estimate for anything else? I am not objecting to the items to take care of the institution. I am objecting, and I made the point of order, as to the $500,000 that is appropriated for a new building, which the Senator himself voted against.

Mr. SMOOT. I have not denied that; but it was not for that reason. I can not stand upon the floor and say that the point of order will lie against this.

Mr. OVERMAN. I understand the Senator's position.

Mr. NORRIS. Mr. President, may I ask the Senator a question?

Mr. OVERMAN. When I get through. I want to ask another question.

Mr. NORRIS. All right.

Mr. OVERMAN. The Senator reported that we needed $5,000,000 for public buildings in this country.

Mr. SMOOT. Yes.

Mr. OVERMAN. Does the Senator think, although they are needed, that the Budget had a right to estimate $5,000,000 for the purpose of building them?

Mr. SMOOT. That is an entirely different thing. We have no estimate at all for that purpose.

Mr. OVERMAN. Would the Budget have a right to estimate for it? That is my question.

Mr. SMOOT. I think they would have the right if the President of the United States in connection with the Budget, agreed to recommend $5,000,000 for that purpose.

Mr. OVERMAN. Why not do the same thing with every other appropriation, then? What is the use of coming to Congress for appropriations?

Mr. SMOOT. No appropriation comes here unless it comes through the Budget. Every item that is in this appropriation bill is found in the Budget report.

Mr. OVERMAN. And every one of them was authorized by law.

Mr. SMOOT. No more than this.

Mr. McKELLAR. Mr. President, will the Senator yield to me?

Mr. SMOOT. Yes.

Mr. McKELLAR. What I am about to say is not about this item; but in answer to the statement the Senator has just made about the Budget, I want to say that in my judgment the Budget just adds another body to which those who want appropriations may appeal. They first go and see how much they can get out of the Budget; then afterwards they go to the House committee to see how much they can get out of the House committee; and finally, if they have not gotten all they want, they come to the Senate committee and get such additions as possible.

Mr. SMOOT. I want to call the Senator's attention to the fact that——

The PRESIDENT pro tempore. The Chair refuses to listen to arguments upon the merits of this appropriation.

Mr. FLETCHER. Mr. President, I want to ask the Senator one question. The whole question is whether this is new legislation on an appropriation bill. Is it not new legislation?

Mr. SMOOT. No, Mr. President; I do not think it is new legislation.

Mr. FLETCHER. There is no legislation previously to authorize this building. Therefore the provision for this building and the appropriation for it must be new legislation, it seems to me; and that is the whole question.

Mr. SMOOT. It is an increase in an appropriation for an agency of the Government. If the Senator's position is right, we never could make an appropriation unless the Budget agreed to it. The Budget agreed to this, though.

Mr. WARREN. Mr. President, I wish to say a few words on the point of order. The matter of the committee voting 5 to 4 or 7 to 8 has nothing to do with the case, because majorities are supposed to rule everywhere. I wish to say, in that connection, that I am trying continuously to get out from under the idea of Government paternalism. The RECORD will show

that I voted against the maternity bill and other bills of that kind. But here is an institution that has been more or less supported by the Government, as my colleague has said, for some 40 years.

Mr. ROBINSON. Mr. President, I rise to a point of order. It is impossible to hear the proceedings of the Senate on account of the discussions and conversations that are going on.

The PRESIDENT pro tempore. The Senate will be in order.

Mr. WARREN. The rules of the House and the rules of the Senate differ. In the House there must be a specific authorization of law for each item, unless they can be brought in under the so-called Holman decision, made years ago; so that almost any matter of legislation can get into an appropriation bill in the House on the ground that it lessens the amount of an appropriation in some way, direct or indirect.

Here we are laboring under different rules. This is the Senate rule:

All general appropriation bills shall be referred to the Committee on Appropriations; and no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill; or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law or treaty stipulation or act or resolution previously passed by the Senate during that session; or unless the same be moved by direction of a standing or select committee of the Senate or proposed in pursuance of an estimate submitted in accordance with law.

This matter conforms to all the stipulations in that article of the rule. There is added to that what was added to the old rule at the time when all appropriation bills were ruled to come to the general Appropriations Committee, the part of the rule which my colleague on the committee, the Senator from North Carolina [Mr. OVERMAN], has read. I do not wish to interest myself especially in this item, except in so far as to state that the latter clause governs all of our appropriations. I want to say to the Senate that more than half of the appropriations in about every bill have no direct statutory law behind them; they can not have, because the items of appropriation change every year and from day to day.

Mr. SWANSON. Will the Senator permit me to ask him a question there?

Mr. WARREN. Certainly.

Mr. SWANSON. If the Committee on Public Buildings and Grounds should meet and authorize the offering of an amendment to an appropriation bill for the construction of a new post-office building in Virginia or elsewhere, would that be in order?

Mr. WARREN. Unless forbidden by another rule.

Mr. SWANSON. No; it would not be. The Senator says this is in order because it has been moved by a standing committee of the Senate.

Mr. OVERMAN. The standing committee is the Committee on Appropriations.

Mr. SWANSON. That is all right. The Committee on Public Buildings and Grounds, under that rule, has the same privilege, the same right to exercise its power, that the Committee on Appropriations has. If the ruling is made in accordance with the request, it would seem to me that the Committee on Public Buildings and Grounds could meet and authorize the chairman or some member of that committee to move——

Mr. WARREN. Have they ever done it?

Mr. SWANSON. I do not know whether that is the rule or not. That is what I want to find out.

Mr. WARREN. Have they ever done it?

Mr. SWANSON. If that were submitted, would it be in order?

Mr. WARREN. I will tell the Senator when a bill of that character comes before the Senate.

Mr. SWANSON. I want to ask, if the Chair decides that the Committee on Appropriations can move to construct a new building, why can not the Committee on Public Buildings and Grounds offer an amendment for the construction of a new building?

Mr. WARREN. That does not touch the point before us, because this is not a new or complete building but is an addition to the present school. If I may be allowed to proceed, I will read the rest of this:

The Committee on Appropriations shall not report an appropriation bill containing amendments proposing new or general legislation.

Is it general legislation to provide further for an institution we have been providing for all these years? We make appropriation for a building already in existence, as provided for by the part of the rule I have just read.

Mr. OVERMAN. May I ask the Senator a question?

Mr. WARREN. Certainly.

Mr. OVERMAN. The Senator read the first section, which is a very useful section, as the Senator knows.

Mr. WARREN. Yes.

Mr. OVERMAN. Why did the Senate put in the second paragraph if it was not to meet just such questions as this? What is its use? If the Chair should rule that this is in order what is the use of this paragraph? What good will it do? Did the Senate mean to do what the rule says?

Mr. WARREN. Will the Senator permit me to answer that?

Mr. OVERMAN. I will; that is what I want.

Mr. WARREN. It was to cut out the riders we have been guilty of putting in, as the Senator knows very well, carrying not only appropriations of millions of dollars, but simon pure general legislation, especially during war times. This was adopted directly after the war. It was to cover these cases where the item put in had no relation whatever to a syllable of the balance of the appropriation bill, but was simply a rider embodying another measure in order to get it through at an early date. That was the situation, and that was why this part of the rule was adopted. It was adopted with a perfect understanding that it did not clash with the part above, because if it had, naturally the one above would have been stricken out.

Mr. KING. Will the Senator yield for a question before he takes his seat?

Mr. WARREN. Certainly.

Mr. KING. I ask, purely for information, whether it is the opinion of the Senator that if Congress should make an appropriation, a gratuity, for a number of years to John Jones or to a corporation, just as an act of charity, or because the Congress felt that John Jones or this corporation was doing some philanthropic or charitable work, that those separate appropriations from year to year would constitute general legislation, so that it could be said that individual or that institution had become a part of the general laws of the country, and that if an appropriation were permitted in some subsequent year, it would not be subject to the point of order that it was special legislation or that it did not relate to a subject that was covered by general legislation?

Mr. WARREN. If it was a matter that had been provided for directly or indirectly in the way of legislation assuming part of the expenses of the matter, I think there would be a right to propose it, and the Senate, of course, would dispose of it as they chose, just as they can do with this matter. It is a mere matter of submitting it to the Senate and letting the majority take it out if they wish to. In my judgment, however, it becomes the duty of the Committee on Appropriations to carry out its understanding of the law. To begin with, as to the Budget, there will be no quarrel about the Budget made, because, while I did not vote for the Budget Bureau, I feel it has done a good deal of good in its way. Formerly we took the estimates of the different Secretaries in the departments, and on those Secretaries' estimates the Senator from Utah, or any other Senator, could move at almost any stage of the consideration of an appropriation bill to insert an amendment which a department had estimated for, as that was within the rule.

The Budget only gets its power from the estimates that are taken to the Budget from the different departments. In other words, instead of those estimates coming to us direct and being referred to the Committee on Appropriations as formerly, they go to the Budget Bureau; the Budget sifts them and, as a general thing, sifts out considerable numbers of appropriation items and a great amount of money in the long run. So that we act upon the estimates, rather than the larger amounts which come up from the departments. The estimate of the Budget goes to the House, and the House, as I have said, inserted this item in the bill, but it went out on the demand of one Representative, under their rule, which, as I have said, differs from ours.

The Senator and I have known the House to cut out such an item as one clerk where they could not discover any general law which gave him place. That ruling has never been either voted for or followed in the Senate, to my knowledge.

Mr. SPENCER. Mr. President, I submit to the Senate that the admitted facts in this case indicate that this is not new legislation. Of course, under Rule XVI, if the Committee on Appropriations puts before the Senate a bill containing either new or general legislation, it is subject to the disciplinary action of having the bill sent back to the committee. But what are the facts in this case? Here is Howard University, with a medical school in existence, a medical school carried on by our appropriations, at least in part. Every year for 15 years or more we have made the continuance of that medical school a

possibility by the appropriations which Congress made for it. This appropriation is not for a new building. This appropriation is not for anything that is not already in existence.

Mr. OVERMAN. Mr. President, the item above provides for the medical school. I did not make any point of order as to that.

Mr. SPENCER. That sustains my point, may I say to my distinguished colleague from North Carolina?

Mr. OVERMAN. The $370,000 is for additions to the medical school. They want $500,000 more for a new building.

Mr. SPENCER. Not for a new building. Let us read the item at which the point of order is directed. The medical school is there. The Senator from North Carolina says frankly that he makes no point of order or objection to the item above for $9,000 for the medical department. What are the items to which objection is made and the point of order raised?

For additions to medical school building.

What building? The very building we ourselves have made possible in the years gone by.

For equipment for additions to medical school buildings.

For what building? The very building for which for 15 years we have been appropriating. All I say, Mr. President, is that that is not new legislation. Certainly it is not general legislation, and it is not new legislation.

May I make this single other remark? I suppose there is not much difference of opinion that it is desirable that the colored race have for its own people, both in dentistry and medicine, those competent to take care of the ills of their bodies, particularly in times of emergency and of epidemics. The facts are——

The PRESIDENT pro tempore. The Chair is of the opinion that the debate should be confined to the point of order raised.

Mr. SPENCER. For the first time I am glad to see somebody on the floor of the Senate confined to the question at issue. I think the Chair is right.

Mr. NORRIS. Mr. President, I want to ask the Senator from Missouri a question. I am trying to get light on the subject. I want to know from the Senator how long, in his judgment, it would be necessary for appropriations to be made year after year so as to take them out of the rule?

Mr. SPENCER. I do not think the mere making of an appropriation, as the Senator from Utah indicates, to some commendable charity, would necessarily make it a subject of statutory creation, but I do say that when those appropriations are not haphazard, but are continuous, and are interwoven with legislation, as the senior Senator from Utah [Mr. SMOOT] pointed out, which requires that institution to report to Congress, and gives us supervision over the amount, that does give it a statutory foundation.

Mr. NORRIS. Then, if I understand the Senator's position, one appropriation would be just as good as a dozen?

Mr. SPENCER. I should think so, with those conditions attached to it.

Mr. NORRIS. I wanted to get the Senator's idea. Now, I want to ask the Senator from Utah another question I tried to ask him when he had the floor. It has been argued by the Senator from Utah and others that this is not subject to a point of order because it was reported by a standing committee.

Mr. SMOOT. I did not confine my statement to that one phase.

Mr. NORRIS. I know that; that was only one of the reasons why the Senator contends it is in order. I do not care whether it is the Senator from Utah or anybody else who believes that way. Does it have any effect? I want to get for the Chair perfect light on the subject. It is said here that this is not subject to a point of order, and the Senator from Wyoming now says that one of the reasons why it is not subject to a point of order is because it is reported by a standing committee. Has it been reported by any standing committee except the Committee on Appropriations in this particular bill we have before us now?

Mr. SMOOT. It has not.

Mr. NORRIS. That is getting the light. That is what I wanted to find out. If that is the reason why we get away from the point of order on that account, then all we have to do to get away from a point of order is to have the Committee on Appropriations report the item.

Mr. WARREN. Oh, no.

Mr. NORRIS. Then why is it being offered?

Mr. WARREN. That reason must be added to the other reasons.

Mr. NORRIS. There is nothing in any rule anywhere that says it is added to any other reason. If it is any reason at all it is a good one, and if it is not a good reason, why offer it? I want to clear the atmosphere if I can. I realize the difficulty the Chair must be facing. If that is not any reason, then why propose it?

Mr. PITTMAN. Mr. President, there is only one question, I take it, after the argument of the Senator from Nebraska. There can be but one question here and that is: Is it new legislation? There is a distinction in the rule. If it is not new legislation, if it is authorized to be reported by the committee, it can be acted on if it is not new legislation. Following that, if it is new legislation there is no provision that it may be put in order by recommendation of the committee or by anybody. There are two distinct things. If it is not new legislation, the amendment is in order if authorized by a committee to be reported. Following that, however, it is provided that if it is new legislation, the committee is not authorized to report it. Consequently we come down to the question as to whether the committee was authorized to report it. If it is new legislation, the rule expressly prohibits the committee from reporting it.

Mr. NORRIS. May I ask the Senator what effect upon the legality of it is given by virtue of the fact that the Committee on Appropriations has reported it?

Mr. PITTMAN. None, if it is new legislation.

Mr. NORRIS. But if it is not new legislation?

Mr. PITTMAN. If it is not new legislation, if it is part of general legislation, then it is not subject to a point of order.

Mr. NORRIS. Then what does the report of the committee have to do with it? If it is not new legislation I could offer it as a Member of the Senate, could I not?

Mr. PITTMAN. There is a prohibition against that, but the prohibition that is against the individual Senator offering the amendment does not extend to the committee, provided it is not new legislation.

Mr. NORRIS. If the committee, assuming that it is not new legislation, is authorized to make a report and that takes it away from the question of a point of order, then what part of of the rule and where is the rule that differentiates in that way? I wish the Senator would read it.

Mr. PITTMAN. That is the way I construe it. It reads:

All general appropriation bills shall be referred to the Committee on Appropriations——

The PRESIDENT pro tempore. The Chair suggests that the Chair is interested in the observations of the Senator from Nevada and would be glad if he would raise his voice sufficiently so the Chair may hear.

Mr. PITTMAN. I beg the Chair's pardon. The rule is found on page 20 and is as follows:

All general appropriation bills shall be referred to the Committee on Appropriations, and no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation—

Now, mind you, here is the exception—

unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during that session—

And here is the differentiation—

or unless the same be moved by direction of a standing or select committee of the Senate——

Mr. NORRIS. Will the Senator permit me to interrupt him right there?

Mr. WARREN. Will the Senator just read the next part of the clause?

Mr. PITTMAN. Certainly—

or proposed in pursuance of an estimate submitted in accordance with law.

Mr. NORRIS. The only part of that which applies to the question I am asking is the exception which says "proposed by a standing or select committee of the Senate." The reason why I feel so positive about it, I will say to the Chair, is because I tried to do the same thing here once with reference to the bill providing appropriations for the War Department. I took the position that the Senator from Utah takes and that the Senator from Wyoming takes, and here is what they read to me, and it convinced me that I was wrong. The fact is that the report of the committee referred to does not mean the committee that reported the bill under consideration, as I am convinced. The same rule in section 2 explains how amendments offered by standing or select committees must be considered, and I will read it. It is section 2, at the bottom of page 20B, as follows:

All amendments to general appropriation bills moved by direction of a standing or select committee of the Senate proposing to increase an appropriation already contained in the bill or to add new items of appropriation shall, at least one day before they are considered, be referred to the Committee on Appropriations.

It refers to some standing or select committee, and if they want to offer an amendment they must do it one day in advance and have it referred to the Committee on Appropriations for their consideration.

Mr. PITTMAN. I agree with the Senator. I had forgotten that, but that is not the question I am getting at. Whether the contention of the Senator from Utah is right or whether the contention of the Senator from Nebraska is right, does not touch this question, because the point of order is based on the ground that it is new legislation and does not come under that provision of the rule, but comes under the provision as follows:

The Committee on Appropriations shall not report an appropriation bill containing amendments proposing new or general legislation.

That is the ground on which the point of order is made. Is it new legislation? That is the question that meets the situation.

Mr. NORRIS. That gets it down to a narrow point.

Mr. PITTMAN. The question is, When did Congress by any general legislation, by any act, create the Howard University as a public institution or as a Federal institution? Never. It was admitted by Mr. Scott that—

Although the Comptroller of the Treasury has held that Howard University is not strictly a Government bureau—

Yet Mr. Scott goes on further to say—

it is nevertheless true that since the first appropriation of $10,000, March 3, 1879, which was specifically given for the maintenance of Howard University, there have been continued increasing appropriations.

That comes back to the question raised by the Senator from Nebraska. The fact that they have continued to violate the rules of Congress or the rule of the Senate by making appropriations without authority does not help the situation. We come back to the proposition, where is there an act of general legislation authorizing Congress to erect buildings for Howard University? The Comptroller of the Treasury, who does control these matters——

The PRESIDENT pro tempore. Inasmuch as the argument is addressed to the Chair, will the Senator from Nevada consider the amendments proposed by the Committee on Appropriations from line 18 on page 101 to line 12 on page 102, and state whether in his judgment those amendments are subject to the same point of order?

Mr. PITTMAN. From the information that is afforded the Senate through the report of the Committee on Appropriations, I would say that they are all subject to the point of order, but I am not so certain of that, sir, for the reason that there was legislation, according to the hearings, though I do not know whether they are accurate or not. On January 28, 1894, the bill H. R. 11284 was enacted into law, authorizing the erection of the present Freedmen's Hospital building. I assume that was general legislation authorizing the erection of that building. If it was, the question as to whether or not they have a right to maintain that building is a question that would depend upon the facts of that particular act.

But I can find nowhere any authority for the erection of additional buildings, even if we erected that building. I can find no evidence of any general authority to maintain Howard University or to maintain the building that they did erect.

Now, they did do this, according to the report, and I am only arguing from the evidence we have before us. There was a donation or recession of land by Howard University for park purposes, but what was the consideration for that? According to the report we have the consideration was not to build a new building for Howard University, not to maintain Howard University, but to exempt its property from taxation. That was the consideration as reported here. Now, unless there can be shown by the Committee on Appropriations some general legislation at some time by Congress authorizing the Government of the United States to erect buildings for Howard University, then it is new legislation if we authorize it here.

Mr. NORRIS. May I interrupt the Senator at that point?

Mr. PITTMAN. Certainly.

Mr. NORRIS. Another point has been raised. I think it would be a good thing to settle it anyway, not only for this item, but for any other that might arise. It is claimed by some that when a matter has been estimated by the Budget it is not subject to a point of order even though there is no law authorizing it.

Mr. PITTMAN. That is not the question.

Mr. NORRIS. That has been the claim. I do not think it is the rule, but it is the claim that if the Budget estimates something it is not subject to a point of order regardless of whether there is any law authorizing the appropriation or not.

Mr. PITTMAN. That is not the rule. The rule here has no exception to it whatever as I read it. There can be no amendment to an appropriation bill if the amendment is carrying new legislation. If that is not so, I would like to know it.

Mr. NORRIS. So would I.

Mr. PITTMAN. Personally I would like for it not to be so. I am not a member of the Committee on Appropriations, and while I have the highest respect for its members I think I have suffered in my requests as much as anybody. They are probably doing their duty. I would like very much to have the privilege right now, during the consideration of this bill, of offering an amendment carrying $250,000 for an addition to the Newlands project in Nevada. Is that new legislation or is it not? I can have a standing committee of the Senate within 24 hours move the amendment. We have the Newlands project and we have spent money on it, and we are now asking for an addition to the project to supply those people with water, and it requires $250,000. If that amendment is offered here now, is it subject to the point of order? Is it new legislation? If a standing committee reports it, it does not have to be estimated.

Mr. SMOOT. It has to go to the Committee on Appropriations.

Mr. PITTMAN. Under the rule, if a standing committee reports such an item it does not have to go to the Budget.

Mr. SMOOT. No, not to the Budget; but it has to go to the Appropriations Committee and be passed upon by that committee.

Mr. PITTMAN. Oh, no.

Mr. SMOOT. The Senator says, "Oh, no"; that is the fact.

Mr. PITTMAN. Mr. President, it does not make any difference whether the building in this instance is a new building or an addition to a building; it is new construction. There is no general legislation which I can find that authorized the Government of the United States to do any new construction for Howard University, and if there is no general law providing for the erection of new buildings for Howard University then the proposition to do so must be new legislation. From the information I have, I would vote right now for an appropriation to erect a new building there; and if such a proposition should become a law Congress then might appropriate money for the purpose; but if the rule of the Senate means anything on earth it is intended to confine appropriations to purposes that are already authorized by Congress.

That is the purpose of the rule, if it has any purpose. If it has not that purpose, then it should not be used alone for Howard University but it should be used for every good purpose for which the Senate thinks it might be used. That is the reason the ruling is important to me.

I have refrained from offering amendments to the pending bill because I have considered that there would be new legislation. I have refrained from offering an amendment to appropriate $250,000 for additional work on the Newlands project which is demanded, and which was estimated for by the Department of the Interior, but which was cut out in the other House. I have refrained from doing it, because I believed it to be new legislation. If the ruling shall be made that an amendment providing for erection of an additional building for Howard University, when there is no statute at all authorizing such a building, is not new legislation, then I contend we have a right to offer amendments to provide additional appropriations for the Newlands project.

Mr. SWANSON. Mr. President, I want to make a suggestion. There is no difference between making an appropriation for an addition to Howard University and making an appropriation for hundreds of other buildings throughout the United States. Additions are needed, I reckon, in the case of two or three hundred buildings to provide post-office facilities, for instance, where present quarters are not adequate for the transaction of their business. There is a demand before the Committee on Public Buildings and Grounds for additions to those buildings. If Howard University may now come in and obtain this appropriation to provide an addition to their buildings, I do not see why an amendment providing an appropriation for any public building anywhere in the United States may not be considered if it be moved by a standing committee of the Senate and reported one day previous to consideration. In the Committee on Public Buildings and Grounds we have hundreds of applications for increased facilities for public buildings. We have been deterred from offering amendments for that purpose because it has been understood there was no law authorizing such additions, and that until a law was

properly enacted authorizing the additions it would not be in order to move those amendments on an appropriation bill.

If this may be done for Howard University, and additions may be made to its buildings without being authorized by law and without having an act of Congress authorizing the committee to report such legislation, it may be done as to other buildings, for there should be no difference in the application of the rule. It seems to me that if the Chair holds in order an amendment providing an appropriation that is not authorized by law, but is new legislation and a new authorization—and there is no difference between a new authorization and new legislation—then the Committee on Public Buildings and Grounds can report amendments to provide additions to buildings all over the country, and comply with the rule by allowing such amendments to lie over for one day. And I do not see how such amendments could be held subject to a point of order.

Mr. DIAL. Mr. President, in addition to what the Senator from Virginia has just said, I desire to call his attention to the fact that Congress has heretofore made appropriations for the construction of many post office buildings, but it has developed that there were not sufficient funds and the contracts for those buildings have therefore been held up. If, however, we are going to adopt this proposed amendment, it seems to me that we could provide for the completion of those buildings, for there is legislation not only authorizing their erection but appropriating a part of the money for their construction. There are in my State several buildings, the construction of which I should like to have completed by securing sufficient appropriations to carry out the contracts which have already been authorized by law.

By looking over the records here I see that appropriations for Howard University have been stricken out in the other House on points of order at different times. One splendid Representative from my State, Mr. Ragsdale, several years ago, made a point of order against such an appropriation and it was sustained. At that time the amount was only $80,360. Senators will realize how it has grown. So it seems to me it is time to stop it. I see no difference between this college and other colleges all over the country. If we are going to establish the policy of making appropriations for educational purposes, let us allow all of the States to have some of the money as it goes around.

The PRESIDENT pro tempore. The Chair would like to ask a question of the Senator from South Carolina for his own guidance and information. Does the Senator from South Carolina regard an act of appropriation as an act of legislation?

Mr. DIAL. I do not know. Perhaps where Congress has authorized land to be bought——

The PRESIDENT pro tempore. The Chair is not asking now whether it is authorized by law or not, but does the Senator regard an act of appropriation as an act of legislation?

Mr. DIAL. If it is to complete a building and the money is appropriated, I think, perhaps, it would be legislation.

Mr. JONES of Washington. Mr. President, as I look at this matter, the question is not what the result might be if the rule were this way or that, but what is the rule which the Senate laid down to guide itself. I think the rule makes a clear distinction between items of appropriation and legislation, either new or general. It also makes a distinction between items to carry out an existing law and items for which there may be no existing law but which may be recommended in some other way. The first paragraph of Rule XVI—and I know it has been previously read—reads as follows:

All general appropriation bills shall be referred to the Committee on Appropriations, and no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation—

Now, note what limitation we put on the new item—

unless it be made to carry out the provisions of some existing law—

If an item of appropriation can not be put into a bill under any circumstances unless it is to carry out existing law, then another provision of this rule is meaningless, because the rule goes on to say:

or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law—

And so forth—

or unless the same be moved by direction of a standing or select committee of the Senate, or proposed in pursuance of an estimate submitted in accordance with law.

Grant that this item is not pursuant to any existing law, it is pursuant to an estimate submited to Congress in accordance with law. Whether it is wise that an item proposed in that way shall be in order on an appropriation bill is not for us to say upon the point of order, if the rule authorizes it and makes it in order.

The PRESIDENT pro tempore. The Senator from North Carolina has not made that point of order. The point of order is that it is new legislation, and the result of sustaining the point of order would be to recommit the entire bill to the Committee on Appropriations.

Mr. JONES of Washington. Of course, if the Senator from North Carolina makes the point of order on the ground that the item is new legislation, and, of course, if the Chair should hold it to be new legislation, the bill would go back to the committee. I thought, however, that the point of order was made on the ground that it was not in order on this appropriation bill in a general way, and it seemed to me that it was in order on the ground I have indicated, if on no other.

The PRESIDENT pro tempore. The Senator from North Carolina has not made that point of order.

Mr. NORRIS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Nebraska?

Mr. JONES of Washington. I yield.

Mr. NORRIS. Even though it may not apply to this bill, I think the question is very important. The Senator argues—and I thought that had been settled, because I asked the question once before—that an item estimated for, even if there was no law for it, would not be subject to a point of order if the committee brought it in. The Senator argues that no point of order can lie because of the provision of the rule—

or proposed in pursuance of an estimate submitted—

Mr. WARREN. "In accordance with law."

Mr. NORRIS. I hope the Senator will let me finish my sentence, and if he does he will not need to add his. I know it sounds a good deal better when the Senator from Wyoming finishes it, but I dislike to get to the middle of a sentence and have somebody take my place, especially when he is violating the rules of the Senate by not addressing the Chair and getting permission to interrupt. Of course, however, the Senator from Wyoming being a new Member here, I will not take offense at that.

Now, the Senate will observe this language:

or proposed in pursuance of an estimate submitted in accordance with law.

Does the Senator think that an estimate submitted without any law behind it would be in accordance with law?

Mr. JONES of Washington. As I understand, what that means is that if the estimate is submitted to Congress in the way that Congress provides for the submission of such estimates, it will come within the rule. This item has been submitted to us by the Bureau of the Budget in accordance with the law creating the Budget Bureau. That is what I understand that rule to mean.

Mr. NORRIS. If we concede, for the sake of argument, that the Budget Bureau have submitted something that is not authorized by law, it seems to me that under this rule it would follow that they had not any right to submit it, although they might have acted right, so far as their conduct was concerned, and submitted this item, as they would have submitted anything else, for instance, sending it in a certain way or signing in a certain way; but if they submitted an estimate here that had no law authorizing it, does the Senator think that that would not be subject to a point of order?

Mr. JONES of Washington. I do not think so under this rule; I do not think that the rule contemplates that.

Mr. McKELLAR. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Tennessee?

Mr. JONES of Washington. I will yield in just a moment. The present rule is the same as the rule we had before the amendment to the rules was made, except that before the amendment the rule read "submitted by a department." I know that time after time when a proposition has been submitted here to insert an item of appropriation in an appropriation bill, the question has been asked, "Is it in accordance with the estimate of the department?" When the answer was "Yes," that ended it; it was held to be in order. I think that is the meaning of the rule. It may be that the rule ought not to mean that, but I think it is perfectly clear that is what it does mean, and that is what we intended.

Mr. OVERMAN. The Budget law authorizes the Budget Bureau to do no such thing.

Mr. JONES of Washington. The Senator from Tennessee [Mr. McKELLAR] first rose, and I yield first to him.

Mr. McKELLAR. I merely want to submit to the Senator a concrete case. George Washington University, in the District of Columbia, at this time is trying to secure funds from private sources. Suppose its officers should go to the Budget Bureau and the Budget Bureau should furnish an estimate recommending that Congress should appropriate $300,000 for George Washington University; simply because the Budget Bureau had reported or included such a provision in its estimates would that make it in order under the rule?

Mr. JONES of Washington. I think so; though, of course, it would be a question for the Senate to determine whether or not it would adopt the recommendations, and, of course, it would not become a provision of law if the Senate should not adopt it.

I do not know what led the Senate in the first instance to adopt the rule that if a department submits an estimate here, that makes it in order on an appropriation bill. The House never had such a rule as that; but when I got to the Senate I found that the Senate had a rule that if an item is estimated for by a department, that makes it in order. It may not have been wise. That did not make it a part of the law.

Now, we have provided for the Budget to submit its estimate. A Senator suggests that we have authorized the Budget to make laws. Not at all. The fact that the Budget submits the estimate here does not make it law at all. It has to be adopted by the Senate. Under our rule it simply makes it in order for somebody to propose it; but, as I understand, this question is really not involved. That point of order is not made. The point of order is made that this is new legislation. Then I have used a good deal of time unnecessarily, except that I do think that the rule itself makes a difference between an item of appropriation and an item of legislation, and that in accordance with that distinction—which seems to me to be perfectly clear—this is not legislation, either new or of any kind, but it is simply an item of appropriation coming under the previous language of the bill.

Mr. LENROOT. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Wisconsin?

Mr. JONES of Washington. I yield to the Senator.

Mr. LENROOT. I should like to see this appropriation made, but the question is a good deal more important than the appropriation involved in this bill.

Mr. JONES of Washington. Certainly; that is true.

Mr. LENROOT. I want to ask the Senator if the proper construction of the paragraph is not this.

The language is:

> Or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law or treaty stipulation—

And so forth. Does not that mean that if the law requires the payment of a certain sum then the amendment may be made to carry out that law?

Then it goes on:

> Or unless the same be moved by direction of a standing or select committee of the Senate, or proposed in pursuance of an estimate submitted in accordance with law.

Does that not include an appropriation that is authorized by law but there is no requirement of any appropriation to pay for it? For instance, practically every item of appropriation in our Agricultural bill is based upon the fundamental law creating the Department of Agriculture. There is no requirement for the appropriation of a single dollar, but it authorizes every kind of an appropriation that can properly come under the head of agriculture; and it is that kind of appropriation that is referred to in the later clauses of the paragraph.

Mr. JONES of Washington. Mr. President, if that contention is right, we do not need the last clause, "proposed in pursuance of an estimate," at all, because if there is existing law it can be offered.

Mr. LENROOT. No; the Senator has not caught my point. If the law requires the payment of a certain sum, then the amendment may be offered upon the floor. If the law merely authorizes appropriations, then it must be proposed by a standing committee or estimated for.

Mr. JONES of Washington. Mr. President, I can not agree with that contention of the Senator.

Mr. ROBINSON. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Arkansas?

Mr. JONES of Washington. In just a moment. I think that has been contrary to the procedure in the Senate, at least ever since I have been here. The general practice has been when an item of appropriation was proposed that the question was asked, "Has it been estimated by a department?" "Yes." "Then it is in order." I remember the time when claim bills have been submitted, not of a private character but of a general character. "Is there an estimate submitted?" "Yes," whether there was specific law providing for the payment of the money or not.

I now yield to the Senator from Arkansas.

Mr. ROBINSON. I will take the floor when the Senator has concluded.

Mr. JONES of Washington. I am through, Mr. President. I just want to add this to reiterate, really, what I said a moment ago:

I think the rules of the Senate distinguish very clearly between items of appropriation and legislation, new or general. The term "general legislation" expresses the idea as well as it can be expressed in any other language or in any other way. The Chair knows that we had quite a practice of putting purely legislative items upon appropriation bills, and those were the items that led to the amendment to this rule—the putting of legislation of that kind on appropriation bills, not items of appropriation. That did not lead to the amendment of this rule. It was the practice that the Senate got into of putting all sorts of legislative provisions on appropriation bills that led to the amendment of this rule.

Mr. ROBINSON. Mr. President, the correct construction of this rule is entirely clear to my own mind. I do not think there is any doubt but that the Senator from Wisconsin [Mr. LENROOT] correctly construes the first paragraph; but this rule must be construed as a whole, and in order to arrive at the correct interpretation of the rule it is proper to take into consideration its history.

The practice had arisen in the Senate of legislating on appropriation bills, of bringing in provisions authorizing expenditures for purposes not previously passed upon by the Congress. In order to terminate that practice and to separate the function of authorizing appropriations and of making them, the second paragraph of the rule was adopted just two or three years ago. The purpose of that part of the rule was to stop the habit of the Appropriations Committee of incorporating legislation within the appropriation bills.

We had just given or were giving to the Appropriations Committee jurisdiction over all appropriations, and in consideration of that very great enlargement of its powers and responsibilities we took away from the committee the power to legislate. We penalized any violation of the second paragraph of this rule by saying to the Appropriations Committee: "If you do bring in a bill that contains new legislation, your bill, upon a point of order, shall go back to the committee."

In my judgment, the whole question is whether the provision in the bill for the construction of buildings at Howard University constitutes new legislation within the meaning of the second paragraph of the bill. The Senator from Wyoming [Mr. WARREN] took that position, and took the position that such provisions do constitute legislation and are violative of the rule, just one year ago, in a precedent which I shall cite in a minute. The Senator from Wyoming then said that if it were not for the fact that the Congress by legislation had authorized the construction of a building, the appropriation for it in the bill then under consideration would be obnoxious to the rule; but it appeared in that case, from a consideration of the record, that the building had been actually authorized.

It is one thing to say that "there is hereby authorized to be appropriated the sum of $350,000 for the construction of a medical school building at Howard University" and an entirely different thing to say that "there is hereby appropriated, in accordance with the foregoing authorization, the funds necessary to carry out the authorization." When there is no act of Congress permitting or authorizing or directing the construction of a building a provision which carries funds for the construction of such building is new legislation within every rule of legal interpretation. So that it follows as an irresistible conclusion that if there is no statute in force authorizing the construction of these buildings the committee has disregarded the second paragraph of the rule and brought in provisions which constitute new legislation.

It is just as much legislation to say that a building is authorized to be constructed as it is to provide for the construction of a building; and our rules have segregated the labor of authorizing appropriations and authorizing buildings and the function of making the appropriations to carry out the authorizations. The power and function of authorizing the construction of

buildings is in the Public Buildings and Grounds Committee of the Senate. That committee can no longer make appropriations or report appropriations to carry out its authorizations. After the authorizations have been made by the committee, through a bill reported by the Committee on Public Buildings and Grounds, the Committee on Appropriations then, under the new provision of the rule to which I have referred, actually reports the appropriations.

Since there is no law or statute which authorizes the building, this unquestionably constitutes new legislation.

This is an important precedent. I do not care, from a practical standpoint, how it is decided; but the effect of it will be to give the Committee on Appropriations, in spite of the rule intended to prevent it, the power, under the guise of making an appropriation, to authorize public works, which authority under our present system is vested in other committees.

The Committee on Appropriations now has no power whatever to legislate. Its sole power is to effectuate or carry out legislation that has been enacted by the Congress through the functions and activities of other committees. I think that the question as a matter of law is perfectly clear, and that the precedent as stated by the Senator from Nevada [Mr. PITTMAN] is indeed a very important one.

Mr. BROUSSARD. Mr. President, I am satisfied that the conclusions reached by the Senator from Arkansas are correct; but I wish to call the Chair's attention to the argument made by the Senator from Missouri [Mr. SPENCER] in this connection. He took the position that this was not new legislation, and that items for this institution were already carried in this bill. I think that provision in the rule would apply to this particular appropriation that is objected to even though the Chair should reach the conclusion that this is not new legislation. The language to which I refer is contained in the third line of the rule:

All general appropriation bills shall be referred to the Committee on Appropriations, and no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill.

So that the position taken by the Senator from Missouri, if agreed to by the Chair, will find the inhibition in this rule which would absolutely eliminate it, because the other provisions are carried in the bill, and the committee now proposes to increase an appropriation for Howard University. So that I think no matter which view the Chair takes, the motion made, directed against this $500,000 appropriation, should be sustained by the Chair.

Mr. BROOKHART. I think the Senator from Louisiana omitted one point in this rule. It seems to me the Senator from Washington is the only one here that has read the whole rule; that all the other discussion leads off from that last part. I read:

No amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation.

That is what we are considering here, adding a new item of appropriation.

Unless it be made to carry out the provision of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during that session.

That part of the idea ends there. All there is to it referring to legislation ends with that semicolon. Then we start with a new proposition:

or unless the same be moved by a standing or select committee of the Senate—

That is independent of all that other provision—

or proposed in pursuance of an estimate submitted in accordance with law.

This amendment, I suppose, comes in under both those latter clauses. I think they have not been considered in this argument, and have not been given the weight that the proper construction of the plain English language in the rule would give to them.

Mr. ROBINSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Arkansas?

Mr. BROOKHART. I yield.

Mr. ROBINSON. I call the attention of the Senator to the fact that the clause which I discussed and upon which the point of order is based is in addition to, and in no wise related to or dependent upon, the clauses the Senator has read. It is an affirmative limitation on the power of the Committee on Appropriations, adopted, I think, in 1922.

Mr. BROOKHART. Where is that provision?

Mr. WARREN. It is on the same page, the second paragraph.

Mr. OVERMAN. Let the Senator read the second paragraph of Rule XVI, on page 20.

SENATE CONTINGENT FUND.

Mr. SMOOT obtained the floor.

Mr. LENROOT. Will the Senator from Utah yield to me for a few moments?

Mr. SMOOT. I yield to the Senator from Wisconsin.

Mr. LENROOT. I wish to state to the Senate that the contingent fund of the Senate for the payment of witnesses and expenses of investigations is entirely exhausted. There are witnesses in the city now from New Mexico who have not money enough to pay their fare back to the State of New Mexico. I have conferred with the chairman of the Committee on Appropriations and other members of that committee, and I ask unanimous consent for the immediate consideration of the joint resolution which I send to the desk.

The joint resolution (S. J. Res. 84) making appropriations for contingent expenses of the United States Senate, fiscal year 1924, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the sum of $125,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year 1924, for expenses of inquiries and investigations ordered by the Senate, including compensation of stenographers to committees at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding 25 cents per hundred words.

Mr. LENROOT. Mr. President, may I say this amount has been estimated for by the Bureau of the Budget, and it would come later in the deficiency bill, but the money will be made immediately available if affirmative action is had.

Mr. WARREN. The joint resolution simply anticipates what would be carried in the first deficiency bill, which is now in the House, not yet acted on, and which may be delayed for some time. It is all right as it is.

Mr. JONES of Washington. I understand this is a joint resolution which is just now being introduced?

Mr. LENROOT. It is.

Mr. JONES of Washington. It has not been referred to any committee?

Mr. LENROOT. It has not.

Mr. JONES of Washington. Of course, that is very unusual. I recognize the circumstances of the case, but I want it understood that it is not to be considered as a precedent hereafter for the introduction of bills and their passage without any reference to a committee.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Wisconsin?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. LENROOT. I ask that the estimate for the appropriation submitted to Congress be printed in the RECORD.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, January 11, 1924.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: I have the honor to transmit herewith for the consideration of Congress, and without revision, a supplemental estimate of appropriation for the legislative establishment of the United States for the fiscal year ending June 30, 1924, in the sum of $125,000.

Respectfully,

CALVIN COOLIDGE.

BUREAU OF THE BUDGET,
Washington, January 11, 1924.

SIR: I have the honor to submit herewith for your consideration and, upon approval, for transmission to Congress a supplemental estimate of appropriation pertaining to the legislative establishment for the fiscal year ending June 30, 1924, as follows:

For expenses of inquiries and investigations ordered by the Senate, including compensation of stenographers to committees at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding 25 cents per hundred words (submitted)----	$125,000

The letter from the financial clerk of the United States Senate submitting this estimate is transmitted herewith.

Very respectfully,

H. M. LORD,
Director of the Bureau of the Budget.

The PRESIDENT.

RECESS.

Mr. SMOOT. Mr. President, I ask unanimous consent that the Senate now take a recess until 12 o'clock to-morrow.

There being no objection, the Senate (at 5 o'clock and 50 minutes p. m.) took a recess until to-morrow, Thursday, February 21, 1924, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February 20, 1924.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Holy, holy, holy, Lord God Almighty, heaven and earth are filled with Thy glory; glory be to Thy name O Lord most high. We are before Thee again to consecrate these hours with all their responsibilities and provileges to Thee—the Father of all light and wisdom. Give eyes to see the light and hearts to love the truth. We are conscious that it is possible for us to live the fuller life of God. Let Thy hand still lead us on with its strength and mercy. O purify and give rest from all strife the world over until Thy kingdom shall reach everywhere. In the name of Jesus our Savior. Amen.

The Journal of the proceedings of yesterday was read and approved.

IMMIGRATION.

Mr. JOHNSON of Washington. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. The gentleman from Washington asks unanimous consent to address the House for three minutes. Is there objection?

There was no objection.

Mr. JOHNSON of Washington. Mr. Speaker, I desire the Members of the House to know that I have received from the Secretary of State, addressed to me as chairman of the Committee on Immigration, a letter transmitting a protest from the Rumanian Government, through its chargé d'affaires, against pending immigration legislation. I will place the entire letter in the RECORD, but I will read one paragaph. After charging that the paragraphs in H. R. 6540 are discriminatory, the chargé d'affaires in a letter to the Secretary of State says:

Further, it should be considered that the adoption of the census of 1890 would not only deeply wound the pride of the Rumanian people but also strongly affect their material interest, inasmuch as Rumanian immigrants by their savings increase the amount of stable currencies available for commercial and financial purposes in Rumania. This in itself would not fail to have a detrimental effect on the chances of Rumania to speedily attain its goal, economic recuperation, an aim which can not be indifferent to any government interested in assisting the world to recover from the consequences of the World War.

Mr. Speaker, is not that an astonishing protest? Shall immigrants come here for the commercial and financial gain of Rumania or any other foreign country?

I would like to say here and now, Mr. Speaker, that these astonishing protests of other governments demanding the right that they may recuperate at the expense of the people of the United States, together with the impudent threat of alien blocs here, should result very soon in the passage of an immigration restriction bill that will really restrict. [Applause.]

The letter in full is as follows:

THE RUMANIAN LEGATION,
1607 Twenty-third Street, Washington, D. C.

The chargé d'affaires ad interim of Rumania presents his compliments to the Secretary of State and, acting under instructions from his Government, has the honor to inform him that the bill known as the Johnson bill, now pending in Congress, is viewed with much concern by the Government of Rumania. While conceding absolutely the undoubted right of the United States of America to limit or even to entirely suppress immigration, the Rumanian Government can not but be painfully surprised when it contemplates the possibility of a bill becoming law the undisguised purpose of which is not only the reduction in the total number of admissible immigrants but more particularly the practical elimination of immigration from southern and southeastern Europe, including Rumania. Under the terms of the bill now before Congress, which adopts as a basis for the quota the census of 1890, the quota of certain countries of northern and northeastern Europe would be but slightly modified, whereas the Rumanian quota would be reduced to a wholly negligible figure, probably around 10 to 15 per cent of the present one. No attempt is even made to justify the selection of the census of 1890 as a basis for the immigration quota.

The Rumanian Government feels compelled to draw the attention of the Secretary of State to the painful impression and the disappointment which would be caused in Rumania should the bill above referred to become law in its present form, the more so as the United States of America have always expressed their determined opposition and aversion to discriminatory policies.

Further, it should be considered that the adoption of the census of 1890 would not only deeply wound the pride of the Rumanian people but also strongly affect their material interests, inasmuch as Rumanian immigrants by their savings increase the amount of stable currencies available for commercial and financial purposes in Rumania. This, in turn, would not fail to have a detrimental effect on the chances of Rumania to speedily attain its goal—economic recuperation—an aim which can not be indifferent to any Government interested in assisting the world to recover from the consequences of the World War.

The Hon. CHARLES EVANS HUGHES,
Secretary of State, Washington, D. C.

February 2, 1924.

BRIDGE ACROSS THE PEEDEE RIVER, N. C.

Mr. HAMMER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2189) to authorize the building of a bridge across the Peedee River, in North Carolina, between Anson and Richmond Counties, near the town of Pee Dee.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HAMMER. Mr. Speaker, I ask to amend the Senate bill by striking out all after the enacting clause and inserting the House bill.

The SPEAKER. The Clerk will report the Senate bill as amended.

The Clerk read as follows:

A bill (S. 2189) to authorize the building of a bridge across the Peedee River, in North Carolina, between Anson and Richmond Counties, near the town of Pee Dee.

Be it enacted, etc., That the consent of Congress is hereby granted to the State Highway Department of North Carolina and its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Peedee River at a point suitable to the interests of navigation, at or near the town of Pee Dee, between the counties of Anson and Richmond, in the State of North Carolina, in accordance with the provision of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed.

The title was amended.

On motion of Mr. HAMMER, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The House bill H. R. 6717 was laid on the table.

LEAVE TO ADDRESS THE HOUSE.

Mr. ANDREW. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to address the House for five minutes. Is there objection?

Mr. GREEN of Iowa. Mr. Speaker, I am sorry, but I shall have to object. The matter that the gentleman wishes to speak about can be discussed under the five-minute rule.

Mr. ANDREW. It amounts to the same thing, does it not?

Mr. GREEN of Iowa. No; it does not, because if we allow the gentleman to address the House we will have to allow others.

THE REVENUE BILL.

Mr. GREEN of Iowa. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 6715) to reduce and equalize taxation, to provide revenue, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GRAHAM of Illinois in the chair.

Mr. GREEN of Iowa. A parlimentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. GREEN of Iowa. On yesterday evening we had read through to line 9, page 26. I am not sure that I correctly

understand the Chair's ruling. Is it in order now to offer amendments to paragraph 8 or wait until it is read through?

The CHAIRMAN. As the Chair understands it, the paragraphs in this bill are designated by letters, and in these paragraphs are subparagraphs or subsections, and unless I am otherwise directed by the committee, the Chair will ask in each case the paragraph be read before amendments are offered. As I understand, the amendments to paragraph (a) are in order.

Mr. OLDFIELD. Mr. Chairman, a parliamentary inquiry. I got unanimous consent a few days ago to offer an amendment striking out the entire section 208. That goes as far as line 21, page 27. Am I compelled to offer the amendment now, or shall I offer it to strike out section 8 down to and including 9, page 26, after it is read; then when the rest of the paragraph is read to offer an amendment to strike out the balance?

Mr. GREEN of Iowa. Under the unanimous-consent agreement the gentleman would have the right to wait until the whole section is read and then offer the amendment to strike it out.

The CHAIRMAN. The Chair was about to state that the gentleman from Arkansas will be recognized to move to strike out the entire section after it is read.

Mr. LONGWORTH. In the meantime, however, it is in order to offer amendments perfecting paragraphs as we go along.

The CHAIRMAN. Yes. Any perfecting amendments are in order as we read the respective paragraphs.

Mr. TILSON. Mr. Chairman, before leaving that point, it is now understood that the lettering shall determine the paragraphs, and the subparagraphs under the letters which are indicated by figures will not be considered as paragraphs.

The CHAIRMAN. That is the interpretation of the Chair. The Chair thinks that will be conducive to expedition in the matter and that it is a reasonable construction.

Mr. TILSON. I think, myself, that is a better way than to attempt to divide it up into the small subparagraphs, which are not complete sentences.

Mr. GREEN of Iowa. Mr. Chairman, I offer the following committee amendment, which I send to the desk.

The Clerk read as follows:

Committee amendment offered by Mr. GREEN of Iowa: On page 26, line 6, strike out "for profit or investment."

Mr. GREEN of Iowa. Mr. Chairman, this is a perfecting amendment. The committee has previously agreed that if any property was entitled to the benefit of the capital-gain section it would be dwelling-house property, but, under the language of the provision as it stands, if a dwelling house were sold, it would have to pay the ordinary tax, in some instances a higher rate than other property. These words, "for profit or investment," have practically no effect except that under the rulings of the department as they stand now they would exclude dwelling houses, which it was not the intention of the committee to have excluded, if the capital-gain section stood.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. GREEN of Iowa. Mr. Chairman, I offer the following committee perfecting amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. GREEN of Iowa: Page 26, line 9, after the word "property," strike out the remainder of the line and insert in lieu thereof the following: "of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale in the course of his trade or business."

Mr. GREEN of Iowa. Mr. Chairman, the object of this was to expand a little further the words "stock in trade," as they might possibly be construed to mean just the stock that the merchant or other party happened to hold in his business house at the time, the idea of the committee being that the definition of "capital assets" should exclude not only what was in the business house at the time but goods in the process of manufacture and other articles that eventually would become a part of the stock and were held for that purpose, and, therefore, would have to be included in the inventory.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. GARNER of Texas. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. GARNER of Texas: At the end of the amendment just adopted by the committee insert "or stock received as a stock dividend by the taxpayer or by the donor if the taxpayer acquired the stock by gift."

The CHAIRMAN. Without objection, paragraph (8) will be read by the Clerk with this included to show its connection.

Mr. GARNER of Texas. I am very glad to have that done.

The Clerk read as follows:

(8) The term "capital assets" means property held by the taxpayer for more than two years (whether or not connected with his trade or business), stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer and primarily for sale in the course of his trade or business, or stock received as a stock dividend by the taxpayer or by the donor if the taxpayer acquired the stock by gift.

Mr. GARNER of Texas. Mr. Chairman and gentlemen of the committee, the object of this amendment is to tax stock dividends in the hands of those who own them for a while and sell them after a few years of ownership at whatever bracket they may appear in rather than the 12½ per cent.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. BLANTON. I am in favor of the gentleman's amendment, but if he will examine it I think he will discover that where he has placed it, it excepts the property from taxation; in fact, does just the opposite of what the gentleman desires.

Mr. GARNER of Texas. Mr. Chairman, I will say to the gentleman from Texas that I have implicit confidence in the experts, and they are the ones who told me where to put this amendment. I will say to the gentleman again that if he had served on the committee as long as I have and knew the technique of this tax business he would find that the placing of a comma, a semicolon, an "or" or an "and" sometimes makes a tremendous difference, and I am perfectly willing to trust Mr. Beaman's judgment on this matter.

Mr. BLANTON. I call attention to this language:

But does not include stock in trade or—

And so forth.

Mr. GARNER of Texas. That is what we want. We do not want it to be included in the capital assets. If it is included in the capital assets, it would bear 12½ per cent. If it is not, it may go as high as 50 per cent under the rates in this bill.

Mr. RAINEY. Mr. Chairman, may I suggest to the gentleman that his amendment ought to be this:

At the end of the last committee amendment strike out the period, insert a comma, and the following words:

Mr. GARNER of Texas. Well, I think that probably would be all right. I did not undertake to arrange the punctuation. Strike out the period and put in a comma.

Now, let me see if I can get you gentlemen to understand it and say if you want to adopt it or not. The experts from the Treasury Department have done a splendid work in this particular, in trying to protect the Government in the sale of these stock dividends and other stock manipulations by stopping up all the holes they can. But in stopping up this particular hole they catch the stock dividend only when it is sold by the party having the ownership by 12½ per cent, whereas if you put this in under the definition of "capital assets" you will subject it to whatever bracket it comes in when the man has got it.

Now, the only objection made to it by the Treasury Department was that you could accomplish the same thing by the reorganization of the corporation. I do not know whether that is true or not, but I say this in spite of that, that I would rather force the corporation to reorganize than to openly give the owner of the stock dividend the 12½ per cent rate on the stock dividend. That is all you do give him.

Mr. LONGWORTH. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. LONGWORTH. This applies only to stock dividends after they are sold, not when they are in the owner's hands.

Mr. GARNER of Texas. No; after they were sold or after two years' ownership.

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. CHINDBLOM. The effect will be, will it not, to place stock dividends on a different basis from other capital gains?

Mr. GARNER of Texas. Yes. I want to place them on a different basis. I think they ought to be taxed originally as if money had been paid. I merely called this to the attention of the committee for the purpose of letting you pass on the

question of whether you want stock dividends placed in the class where they can bear the rate of taxation which they would bear if they had been owned by the original man in a higher bracket than 12½ per cent. Outside of that I have no interest in the matter.

Mr. MILLS. Mr. Chairman, the amendment proposed by the gentleman from Texas [Mr. GARNER] is nothing but an ineffective gesture directed against stock dividends. And let me show you why. Assuming that a corporation is capitalized at $100,000 and has a surplus of $150,000, and it desires to increase its capital stock, it has two methods of doing so open to it. The first is to issue stock dividends to the extent of $50,000, in which event the gentleman from Texas proposes to tax the owner of that stock dividend when he sells it at a profit, not at the 12½ per cent rate applicable to the case of profits derived from the sale of capital assets but at the surtax rate. The corporation, however, can with equal facility simply reorganize on the basis of $150,000, issue new stock to its stockholders, and then the stockholders, if they sell that new stock at a profit, will be taxed at the 12½ per cent rate and not at the rate suggested by the gentleman from Texas. In other words, the amendment will accomplish nothing whatsoever in the way of increasing revenue or in the way of reaching the stock dividends at which it is aimed.

Moreover, let me point out to you, gentlemen, that there is an injustice involved here. Assuming that a corporation is capitalized at $100,000, that it has a surplus of $50,000, or total assets of $150,000, and assume that all other factors—and by that I mean profits—are equal, the original stock which was issued at par would be worth $150. If the stockholder sells that original stock worth $150, which cost him $50, why under the law, even as amended by my friend from Texas, he would be taxed 12½ per cent on the $50. If, however, that corporation in its desire to increase its capitalization should issue a stock dividend based on the surplus of $50,000, then if the owner of the capital stock sells that stock for $50 he would be taxed not at the 12½ per cent but at the surtax rate. The situation is in no wise different. At all times he owned $150 worth of stock. He owned it before the declaration of a stock dividend and he owned it afterwards. If he sold his stock for $150 before the declaration of the stock dividend you tax the sale at 12½ per cent. If the stock dividend is declared and he sells the stock, you tax the profits on the sale at the surtax rate provided.

Mr. JONES. Mr. Chairman, will the gentleman yield?

Mr. MILLS. Yes.

Mr. JONES. If the majority who control the corporation happened to be men of small means they would not be subject to the surtax rate and it might be that they would not reorganize in order to save taxation just for one man, or a few wealthy men who might be interested in the corporation, and therefore the Garner amendment might accomplish something in that event, might it not?

Mr. MILLS. No. The Garner amendment would accomplish nothing in either event.

Mr. JONES. I am afraid I did not make myself clear. Suppose in the $100,000 corporation just mentioned a majority of those would be men to whom a 12½ stock tax would be greater than their surtax. Therefore they would not want the corporation to be reorganized. But there might be a man or two in the corporation whose surtax would be greater. Therefore they might say, "We will not reorganize. We will simply issue extra stock and let the men sell it if they want to."

Mr. MILLS. The trouble is that the gentleman thinks this whole tax applies at the time the corporation reorganizes or the stock is issued. It applies at the time the man sells his stock.

Mr. JONES. No; I think it would apply in the event of a sale.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MILLS. Mr. Chairman, may I have three minutes more?

The CHAIRMAN. The gentleman from New York asks unanimous consent for three minutes more. Is there objection?

There was no objection.

Mr. MILLS. There is an additional objection to this proposition. I take it that it is aimed at the holders of stock dividends which have been issued in large quantities in the course of the last three years. If you adopt the amendment suggested by the gentleman from Texas this situation arises: The owners of these stock dividends, who disposed of them prior to the passage of this act, will be taxed 12½ per cent, while the owners of the stock dividends, who dispose of them after the passage of this act, will be taxed at the higher rate. So I say the amendment is objectionable; first, because it is wholly ineffective, for by going through a process of reorganization, which is just as simple, let me say, as the issuance of a stock dividend, it can be totally avoided; in the second place it discriminates, without any logic or reason, between the owner of stock in a corporation which has a surplus and which has not declared a stock dividend and the owner of stock in a corporation which has a surplus and has declared a stock dividend; and, in the third place, it discriminates, without reason or logic, between the owners of stock dividends who dispose of their stock dividends prior to the passage of this act and those who dispose of their stock dividends after its passage.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. MILLS. Yes.

Mr. CHINDBLOM. In addition to that it discriminates between earnings obtained from capital stock and earnings obtained from other sources; I mean capital earnings obtained from other sources.

Mr. MILLS. Oh, yes; the gentleman is quite correct. The surplus of a corporation does not necessarily come from accumulated profits; a large part of it may be due to the accretion in value of capital assets and to the extent that the surplus represents the accretion in the capital value of its assets; then we discriminate against that corporation by taking away from its stockholders the benefits of the capital-assets provision of the bill.

Mr. CELLER. Will the gentleman yield?

Mr. MILLS. Yes.

Mr. CELLER. If it were constitutional to do so, would the gentleman be in favor of a tax on stock dividends?

Mr. MILLS. I do not want to go into that whole question, which is very difficult. I am one of those who agree with the majority of the Supreme Court that the issuance of a stock dividend does not in any way alter the value of the ownership which a stockholder has in the assets of a corporation.

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Illinois [Mr. RAINEY] is recognized.

Mr. RAINEY. Mr. Chairman, this is an exceedingly important amendment. It will yield more revenue, if it is adopted, than the automobile taxing sections of this bill. If this amendment is adopted we can, without decreasing the revenues, strike out these automobile taxes and, perhaps, some more of the nuisance taxes in this bill.

I am one of those who agree with the gentleman from New York [Mr. MILLS], who has just taken his seat; I agree that the decision of the Supreme Court which declared these stock dividends not taxable under the income tax amendment, although it was a five to four decision, will not be reversed under the law as it stands now. I do not think a distribution of stock is a distribution of income.

The amendment submitted yesterday by my colleague [Mr. GARNER], and which was defeated yesterday before adjournment, would simply again put up to the Supreme Court of the United States the clause in the revenue laws it has declared unconstitutional, and if the Supreme Court of the United States should hold again, in the event that amendment had been incorporated in the bill, as it held in 1920, that amendment would have been absolutely unavailing, and I believe the Supreme Court would stand by that decision.

But we must reach, if we can, these stock dividends and the profits which go with them. At the present time the recipients of stock dividends can hold them for two years and then dispose of them and account not in the surtax rates but account for them at 12½ per cent in their income-tax returns as if they were making an investment.

Now, I want to call the attention of the committee to the history of stock dividends, the recent history. In the original income-tax bill we placed a clause taxing stock dividends 10 per cent; I think that was the amount, and stock dividends were taxed until March 15, 1920, when the Supreme Court by a 5 to 4 decision held that a distribution of stock was not a distribution of money at all, and therefore it did not come within the income-tax amendment to the Constitution of the United States. After that decision of the Supreme Court there commenced a series of stock distributions. From that time and until May 21, 1920, $475,000,000 worth of stock was distributed as stock dividends. After that date, in May, stock dividends stopped, and I want to tell you why they stopped. The soldiers' adjusted compensation bill in the Sixty-sixth Congress made its appearance from the committee on that date, and the original soldiers' adjusted compensation bill, as reported by the committee, contained a clause which I succeeded in getting in myself, but which I did not draw. It was drawn by the chair-

man of the committee, the gentleman from Iowa [Mr. GREEN]. It went in the bill; it taxed corporations on the privilege of making stock dividends; it required that that tax revert to the date of the decision of the Supreme Court which destroyed the tax on stock dividends, and, of course, under the decisions of the Supreme Court an income tax of this character can be made to revert, and we could make this tax revert, and we did. From that time on and until the soldiers' adjusted compensation bill of the Sixty-sixth Congress was killed in the Senate, after the presidential election of that year, there were no stock dividends. There was a majority for the party now in power of 7,000,000 in the national election of that year, and the selection of Secretary Mellon as Secretary of the Treasury, and the apparent fact that the party of Mr. Mellon was strongly intrenched in power, and perhaps, the danger that it would not always remain intrenched in power led to a resumption of stock dividends.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAINEY. I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for five additional minutes. Is there objection?

There was no objection.

Mr. RAINEY. And in the year 1922 there was a perfect flood of stock dividends. The stock dividends distributed in 1922 amounted to over $2,100,000,000, and the Gulf Oil Co., which is Secretary Mellon's company, led in those stock distributions. The Gulf Oil Co. led the movement with a 200 per cent stock distribution. I am indebted to the industry of the gentleman from Wisconsin [Mr. FREAR], and the country is indebted to his industry for many things now, for the following interesting fact:

According to the gentleman from Wisconsin [Mr. FREAR], after this 200 per cent stock distribution made by Mr. Mellon's company, the stock in the Gulf Oil Co. increased in value from $400 to $800 per share. A stock distribution of 200 per cent resulted in an increased value in this case to all the stock in Mr. Mellon's Gulf Oil Co.; and it is the same oil company which is now operating in Mexican fields.

Now, if, as the gentleman from New York [Mr. MILLS] says, this amendment is a mere gesture, it can not hurt any of these corporations and none of them will be called upon to disgorge any of their illicit gains on account of these stock distributions; but if it is not, if it is more than a gesture, then it accomplishes something.

Under the law as it stands now and under this section of the bill as it has now been made by the committee amendments, you can hold stock obtained in a stock distribution for two years. If you sell it prior to the expiration of two years, you must account for your profits on that stock received as a distribution in the surtax rates.

But if you sell it after the expiration of two years, then you can regard it as an investment in your income-tax return and account for it only in the 12½ per cent rates. The object of this amendment is to take it out of the capital-assets clause, so that if it is disposed of after two years the recipient of the cash will be required to account for just as much taxes in the high surtax rates as he would now if he sells his stock within two years. The only reason that exists for these stock distributions is that the recipient can hold them under the law as it now stands for two years and then dispose of them and account for them at 12½ per cent when he makes up his tax schedule. If he sells within the two years, he must account for them in the surtax rates, and that makes it possible for these large stockholders in the great corporations of this country to escape accounting for a large share of their profits in the income-tax rates.

Why, Secretary Mellon does not pay any normal tax at all. There are six men in the United States who pay no normal tax. They are the six men whose incomes are $3,000,000 or more than that. They have invested all their earnings in corporations, so that they are not required to pay any normal income tax at all. These six men are the greatest tax dodgers the world has yet produced.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. RAINEY. May I have five minutes more, Mr. Chairman?

Mr. GREEN of Iowa. Could the gentleman get along with three minutes?

Mr. RAINEY. Yes; three minutes will be sufficient.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for three additional minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. RAINEY. This amendment, as the gentleman from New York states, if it is effective, will reach those who have not yet disposed of the $2,100,000,000 worth of stock dividends they received in 1922, following the leadership of Mr. Mellon in that year. Of course, it will reach them.

That is what it is intended to do, and it will reach them if the stock is sold after the adoption of this amendment; and if they have sold that stock before this amendment is adopted, they have already accounted for it in the surtax rates, provided they sold it within two years after the distribution was made.

Mr. MILLS. Will the gentleman yield for a question?

Mr. RAINEY. Yes.

Mr. MILLS. What is to stop any man who owns one of these stock dividends, if this section is adopted in the House, from selling it to-morrow and buying it back the next day and so stepping out from under the section?

Mr. RAINEY. I do not think that can be done. I think if this amendment is adopted, from the moment it becomes the law, the recipient of a stock distribution who sells it will account in the surtax rates. It may be, as the gentleman suggests, that they could sell now before the bill becomes a law, but they could not sell now and escape anything if they received that stock dividend within the last two years. If they received it in 1922 and sold it now, the two years not having yet expired, they would account for that sale as profits in the high surtax rates. [Applause.]

The CHAIRMAN. The time of the gentleman has again expired.

Mr. JONES. Mr. Chairman, I ask for recognition.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. JONES. Mr. Chairman, I just want to say a word with reference to the illustration which the gentleman from New York gave about the corporation which has $100,000 of stock, in which he said that if this amendment were adopted they could reorganize if they wanted to issue a $50,000 stock dividend, and instead issue $150,000 of new stock to take the place of the old stock, and each owner would get his share and at the end of two years, if any holder sold it, he would only be taxed on the 12½ per cent basis. The vice in the gentleman's illustration is twofold. In the first place, he assumes that all corporations, some of which hold valuable franchises which could not be transferred, could reorganize, and in the second place, he assumes that all of those who own the $100,000 corporation, or a majority of them, will be subject to the surtaxes to such an extent as to make it to their interest to reorganize.

To show you a case in which the amendment would apply, let us assume that in this $100,000 corporation there are 60 men who own $1,000 worth of stock each, and one man who owns $40,000 worth of stock. The Garner amendment is adopted. Let us take each illustration—one in which the corporation does not reorganize but issues a $50,000 stock dividend, and the other one in which the corporation undertakes to reorganize and issue $90,000 to the group of men who owned $1,000 each, and issue to the other man $60,000 in lieu of the old stock held by them respectively. At the end of two years they all undertake to sell their stock. If they reorganize each one would have to pay the 12½ per cent, or in the alternative pay under the surtax provisions. The small man would probably choose the regular income rates, and the wealthy man would choose the 12½ per cent rate; whereas if they went ahead under the old plan and simply issued their stock dividends and sold them at the end of two years, the wealthy man would have to pay under the surtax rates. In other words, he would have the surtax to pay, and I say that the 60 men who control the corporation would not reorganize but would go ahead and declare their stock dividend and let the wealthy man pay under the surtax rates.

Mr. MILLS. Will the gentleman yield?

Mr. JONES. Yes; I yield.

Mr. MILLS. I think the gentleman is unaware of the fact that the capital assets provision is optional and that a taxpayer only comes under it if he elects to come under it. So that the gentleman must understand that in so far as capital assets are concerned when held by a small taxpayer, he would elect to be taxed not under that provision, but under his own rates of taxation.

Mr. JONES. Very true, but if the Garner amendment were adopted and the corporation did not reorganize, then the man who owned the $40,000 worth of stock, which he sold at the end of two years, would come under the surtax.

Mr. MILLS. Yes; the Garner amendment might have the effect of depriving the small stockholder of his option.

Mr. JONES. No; it would not deprive the small stockholder of his option, because he would not be taxed, but it would deprive the big stockholder of a means of escaping taxes. The man who had only $1,500 worth of stock and sold it at the end of two years, if he had no other income, would not be taxed at all under the Garner amendment. Also, if at the end of two years, the man who owned the $40,000 worth of stock undertook to sell it, under the Garner amendment he would be subject to the surtax, and he would not have the choice, if the corporation did not reorganize, would he?

Mr. MILLS. It deprives him of his choice, in any event.

Mr. JONES. You do not mean to say that if the Garner amendment were adopted and the corporation did not reorganize but simply went ahead and issued stock dividends, and the man worth the $40,000 worth of stock at the end of two years undertook to sell it, he would have his choice, if the Garner amendment applied?

Mr. MILLS. He would not come under the capital-assets provision.

Mr. JONES. No; but he would come under the surtax.

Mr. MILLS. He would not come under the capital-assets provision and therefore I say——

Mr. JONES. And he would have more than 12½ per cent to pay in that event.

Mr. MILLS. Therefore I say that what Mr. GARNER's amendment does is to deprive him of his option.

Mr. JONES. Yes; and any corporation that is controlled by men who would pay more under the 12½ per cent capital rate than under the surtax rate would refuse to reorganize.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MILLS. Mr. Chairman, I ask that the gentleman be given two minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MILLS. Is the gentleman from Texas under the impression that under the Garner amendment the full amount of stock dividends could be taxed?

Mr. JONES. No; only the amount of the profit. If a man had a lot of other property, the surtax might amount to more than 12½ per cent.

Mr. MILLS. The gentleman realizes that there might be no property?

Mr. JONES. Then he would not be affected in any way. In the event there was a profit under the Garner amendment, if the man had a large income, he would be taxed at the surtax rate. At the present time he could have an option of 12½ per cent or the surtax rate.

Mr. SEARS of Florida. Will the gentleman yield?

Mr. JONES. Yes.

Mr. SEARS of Florida. My colleague said, according to the statement of the gentleman from New York, they would reorganize and issue additional stock.

Mr. JONES. Yes.

Mr. SEARS of Florida. People for years have believed that they evaded the tax in that way, and now the gentleman from New York confirms what we believe.

Mr. JONES. Of course, Mr. MILLS assumes that all corporations will reorganize in order to enable some of their wealthy stockholders to dodge taxes. As a matter of fact, some of them would not and others could not afford to go to that expense, to say nothing of the danger of the loss of some of their rights in franchises or other concessions. If this amendment is a mere gesture, why is the gentleman from New York so frantic in his opposition to it?

Mr. GREEN of Iowa. Mr. Chairman, I move that all debate on this amendment and all amendments thereto be now closed. This motion not to affect the unanimous-consent agreement in reference to the amendment to be offered by the gentleman from Arkansas [Mr. OLDFIELD].

The CHAIRMAN. The question is on the motion of the gentleman from Iowa that all debate on this amendment and amendments thereto be now closed.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The Clerk will continue the reading of the bill.

The Clerk read as follows:

(b) In the case of any taxpayer (other than a corporation) who for any taxable year derives a capital net gain, there shall (at the election of the taxpayer) be levied, collected, and paid, in lieu of the taxes imposed by sections 210 and 211 of this title, a tax determined as follows:

A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount plus 12½ per cent of the capital net gain.

(c) In the case of any taxpayer (other than a corporation) who for any taxable year sustains a capital net loss, there shall be levied, collected, and paid, in lieu of the taxes imposed by sections 210 and 211 of this title, a tax determined as follows:

A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount minus 12½ per cent of the capital net loss; but in no case shall the tax under this subdivision be less than the taxes imposed by sections 210 and 211 computed without regard to the provisions of this section.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. GARNER].

Mr. HUDSPETH. Mr. Chairman, may we have the amendment again reported?

The Clerk again reported the amendment, as follows:

At the end of the committee amendment adopted, in line 9, page 6, strike out the period, insert a comma, and the following: "or stock received as a stock dividend by the taxpayer or by the donor or if the taxpayer acquired the stock by gift."

The CHAIRMAN. The question is on the amendment of the gentleman from Texas.

The question was taken; and the Chair being in doubt, the committee divided, and there were 132 ayes and 88 noes.

Mr. GREEN of Iowa. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed Mr. GREEN of Iowa and Mr. GARNER of Texas as tellers.

The committee again divided; and the tellers reported that there were 162 ayes and 112 noes.

So the amendment was agreed to.

The Clerk, continuing the reading of the bill, read as follows:

(d) The total tax determined under subdivison (b) or (c) shall be collected and paid in the same manner, at the same time, and subject to the same provisions of law, including penalties, as other taxes under this title.

(e) In the case of the members of a partnership, of an estate or trust, or of the beneficiary of an estate or trust, the proper part of each share of the net income which consists, respectively, of ordinary net income, capital net gain, or capital net loss, shall be determined under rules and regulations to be prescribed by the commissioner with the approval of the Secretary, and shall be separately shown in the return of the partnership or estate or trust, and shall be taxed to the member or beneficiary or to the estate or trust as provided in sections 218 and 219, but at the rates and in the manner provided in subdivision (b) or (c) of this section.

Mr. OLDFIELD. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment by Mr. OLDFIELD: Page 25, line 3, strike out all of the page down to and including line 25 on page 25, all of page 26, and down to and including line 21 on page 27.

Mr. GREEN of Iowa. Would the gentleman from Arkansas be willing to agree to some time for debate on this amendment?

Mr. OLDFIELD. Yes. How much time does the gentleman from Iowa suggest?

Mr. GREEN of Iowa. Will 20 minutes be enough—10 minutes on a side?

Mr. OLDFIELD. I think 10 minutes on a side will be sufficient.

Mr. GREEN of Iowa. To accommodate another gentleman I ask unanimous consent that all debate on this amendment and all amendments thereto be closed in 30 minutes.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that all debate on this amendment and amendments thereto close in 30 minutes. Is there objection?

There was no objection.

Mr. GREEN of Iowa. I further ask that the time be equally divided between the gentleman from Arkansas and myself.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that the time be divided between the gentleman from Arkansas [Mr. OLDFIELD] and himself. Is there objection?

There was no objection.

Mr. OLDFIELD. Mr. Chairman and gentlemen of the committee, I agree very thoroughly with the amendment offered by the gentleman from Texas [Mr. GARNER], just adopted. But that does not cure the evil. I am opposed to the policy of section 208, and I will tell you why in as brief a time as it is

possible for me to do so. This provision of the bill did not appear in the act of 1918. It never appeared in any law in this country until the act of 1921. Under this provision in section 208 of this bill they undertake to divide and specify and set aside different sorts of income, and make sacred a certain kind of income which I do not believe is fair to all the taxpayers of the country. Under this provision an individual can invest in land—or first, I will say, that there are three sorts of income; first, that which is the effort of labor, income that is earned.

If you earn $50,000 a year at your work, that is taxed in the surtax brackets where it belongs. There is another kind of income, and that is the income from the interest on notes or dividends on stocks or bonds. That is also taxed in the surtax brackets where the amount belongs. But in this proposition, if a man has an income on account of the enhancement in the value of the property, stocks, bonds, real estate, that is not taxed in the way that you are taxed on the money that you earn in the brackets where it should properly belong, but it is taxed at the rate of 12½ per cent flat. I think that policy is bad. I think this section ought to be stricken out because the policy is bad. Suppose a man buys a piece of real estate in the city of Washington for $100,000 and keeps it for two years and then sells it for $1,000,000. Of course that is an exaggerated case, but there are many cases similar to that, both above and below. The gain from that, after he had kept it for two years, and he has not done anything in the world except to invest $100,000 in it, is taxed at the rate of 12½ per cent, which would be 12½ per cent on $900,000. If this provision were not in the law he would be taxed $472,000, because it would fall in the surtax brackets where it properly belongs. Some gentlemen object to this because they say they would not sell. If a man will not sell for a profit of $372,000, it makes no difference to me whether he sells or not. I think they would sell if they could make a profit of $372,000 on a $100,000 investment in two years. But, at any rate, why should they not be taxed as much on the enhancement in the value of the property which they get as other people are on money they earn? The same is true with stocks. A man can buy $100,000 worth of Steel Corporation stock, keep it one year, and sell it at a profit of $100,000 and he is taxed $12,500, but if you earn $100,000 you are taxed $30,000. This is the greatest leak in this bill.

It was put in there because there were a great many people in America in 1921—I know some of them, although it would not be fair to mention the names on this floor, and it is a matter that we thrashed out in the Ways and Means Committee—there were some who had timberlands and coal lands and other lands which they had owned for some years, and they did not want to sell them at the inflated prices which we had in 1920 and in 1921 and pay the high surtax rate. Therefore they had this provision placed in the law, and it is wrong. It ought not to be in the law. Why not tax them just as you tax everyone else? Of course, as the gentleman from New York [Mr. MILLS] said a moment ago, this 12½ per cent or surtax is optional. Up to $30,000 of income a man may just as well pay the normal and the surtax, because they do not amount to any more than the 12½ per cent, but when you make more than $30,000, then you receive a benefit. In other words, this benefits the man who made more than $30,000, and it does not benefit the man who makes less than $30,000. Is there a man on either side of this House who down in his heart feels that the man who makes $30,000 on a transaction like this, or over, should get the best of it as between that man and some man who makes less than $30,000? It is so simple, to my mind it is so clear, that this is bad policy that I think there ought not to be any question about it. What I am saying to you now can not be disputed. It will not be disputed by Mr. MILLS or Mr. GREEN or anyone else, but here is the argument that they will make: They will say that under this provision we will get more revenue, but I do not believe that statement, and I know that they do not know that the statement is true. Why do I say that? Because the Treasury Department has never submitted any figures which would show that we would get more revenue under this provision than if it were not in the law.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. OLDFIELD. Mr. Chairman, I shall be compelled to use a little more time.

Mr. DENISON. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. DENISON. How does the gentleman feel about losses of that kind?

Mr. OLDFIELD. I think that losses ought to be deducted.

Mr. DENISON. All losses?

Mr. OLDFIELD. Yes; all the gains should be taxed and all of the losses should be deducted. I have not a doubt in the world that a great deal more money is made by speculating in stocks and bonds and real estate than is lost. I say tax all the gains and deduct all the losses. That is fair to everyone.

Mr. DENISON. The gentleman does not think there are more gains than losses in the purchase of stock?

Mr. OLDFIELD. I do with the kind of people who hold them for two years. They are conservative. They have money; they are able to hold them for two years, and they are able to hold their bonds for two years. They are able to hold them until the cycle of business changes. The experts tell us that there is a cycle in business. Their gains are taxed at 12½ per cent while everybody who earns money is taxed in the surtax bracket, where they belong. Mr. MILLS will tell you that under this provision of this bill you will get no money.

Mr. McCoy said that the other day also, but he did not offer a scintilla of proof, and right here let me say that we have been unable to get information out of the Treasury Department. I say that the minority of the Ways and Means Committee, regardless of the party in power, ought to have at least two or three experts connected with it. Let us have them when you are in power and let you have them when we are in power. Those men should be able to go to the Treasury Department and check up the figures and bring the facts to this House. I think everyone ought to have the facts before him. To show you how much Mr. McCoy knows about the proposition, he said the other day that in the 1918 act capital gains were not taxed at all. That is not true, and everyone connected with the Treasury Department knows that that is not true. Up until 1921 they were taxed like everything else was taxed, and then some gentleman before the committee said they picked out 15 or 20 of the big fellows and found out that they had deducted $11,000,000 in losses and reported $1,000,000 in gain. You can pick out these things in the Treasury Department and prove your case, but we ought not to be in the business of picking them out and leaving all of the others. They can get the information. Mr. McCoy said that they could. All they have to do is to go to the records and find out. Every man who returns an income-tax return returns his loss and his gain under this provision of the law—capital gains. You can go through the records there and get the proof, and Mr. McCoy told me they could. I asked him if he would get the information, and he said he would, but he has not gotten it. He has not furnished it to this House. It is not fair to the House, therefore, to say that we will get more money if we do not repeal this provision of the law. But if you do, you will put everybody, every kind of an income, on the same basis. Why do you want to tax a man who makes money out of holding stock for two years at a less rate than we are taxed and every other income-tax payer in the country is taxed? Why tax the man who makes a good deal of money on bonds, after holding them for two years, less than you tax the man who earns $25,000 or $50,000 a year? Let us take a piece of land on the water front down here. Suppose the Government has spent millions of dollars in improving the channel of the river and makes the property on the river front worth ten times or a hundred times more than was paid for it. Why tax that increment, that enhancement in value, to which the owner has not added one penny, for less than you tax every citizen in the country who earns his money?

I say, gentlemen, it is bad policy and it ought not to be kept in this law. It is an outrage. It is a vicious proposition. It is one of the deliberate leaks of this bill. It was put in there for the purpose of permitting these fellows to sell their property and make a lot of money and pay only 12½ per cent instead of 50 per cent. They say they found $11,000,000 in loss and $1,000,000 in gains. They evidently did not take into consideration Senator COUZENS's taxes. That matter was bandied around here in letters passing between Secretary Mellon and Senator COUZENS, and Senator COUZENS has no objection to my mentioning it on the floor. He paid the high surtax. He paid nearly $8,000,000 in taxes, gentlemen, whereas if he had waited a year or two he would have had to pay only $2,000,000. He told me the other day that many men had done the same thing.

Why did not the Treasury Department find those cases? When the Treasury Department goes and picks out cases, why do not they pick out cases that weigh against their argument, just as they pick them out in favor of their argument?

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. GREEN of Iowa. The gentleman surely does not mean to say that these cases were picked out. They were the 50 largest taxpayers.

Mr. OLDFIELD. Why did they not include the COUZENS case? It is only a short time ago. It was in 1921. This is 1924.

Mr. GREEN of Iowa. They have not named anybody.

Mr. OLDFIELD. Secretary Mellon named Senator COUZENS in the newspaper correspondence, did he not?

Mr. GREEN of Iowa. This is not the way to deal with this matter.

Mr. OLDFIELD. The correspondence shows that he paid $8,000,000 in taxes, whereas under this bill he would pay only $2,000,000. We want to give the facts.

Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has two minutes.

Mr. GREEN of Iowa. Mr. Chairman, I hope I may have the attention of the House because I am satisfied that I can explain this matter, and gentlemen on either side will want this information. I think I can show beyond all controversy that the adoption of this amendment would cause a loss to the Treasury of the United States of from $25,000,000 to $50,000,000. I do not mean by that to cast any reflections upon my friend from Arkansas [Mr. OLDFIELD] who is honest and diligent and a hard worker. He thinks he has found a place where some parties who ought to pay high taxes are getting away from them, but he is mistaken.

Now, the fact of the matter is that this capital-gain provision, as the gentleman from Arkansas correctly stated, does not apply to those who have incomes below $30,000. It applies only to those in the high brackets—that is all—those who would pay high rates. And for that reason the proposition of the gentleman from Arkansas looks plausible, because we cut down the taxes they would otherwise pay if they made these sales. Why was this provision originally adopted? It was not adopted on the recommendation of Republican Secretaries of the Treasury alone; it was adopted also because we were informed by a previous Democratic Secretary that the provision taxing capital gain by the surtax rates was a failure. Why? Because people did not have to sell to be taxed at those high figures, but they always took their losses and got full credit for them. Democratic Secretaries of the Treasury as well as Republican Secretaries were unanimous on that point.

Now, we found in 1920, before this capital-gain section was enacted, that the 50 largest taxpayers were taking their losses but realized no capital gains, and they took the 50 largest as the extreme cases, the men who paid the most, as the fairest. They did not pick out one here and there, and I have no doubt Senator COUZENS was included if he sold his property in 1920—the 50 largest taxpayers showed $10,000,000 of losses and only $1,000,000 of capital gain, because they did not have to take their gains.

The gentleman from Arkansas said a man will sell when he makes a big profit. Well, if property is worth $100,000 to the buyer, it is worth just about the same to the seller. Why should anyone sell and pay these high surtaxes when he can keep the property and make practically as much out of it as the man who proposes to buy it? He will not do it. He will not be foolish enough to do it. He will say, "This property is worth just about as much to me as to the other man, and therefore I will not sell and will not pay 50 per cent on my gain; because if I did, it would wipe out all the profit I could get and put me in a worse position than if I kept the property."

If you pass the bill you will wipe out that $25,000,000 that we expect to get on both sides by putting in a similar provision as to capital losses, namely, that capital losses should be allowed in the way of deductions at the rate of 12½ per cent, the same as capital gains, which is a part of the section which the amendment seeks to strike out. But, of course, if the amendment of the gentleman from Arkansas prevails, that is the end of it. He would not want the losses to be treated differently. We will lose that $25,000,000, and then we will lose a number of millions in addition, because it will simply stop these sales and we will get no revenue out of the provisions in the amendment. They will proceed just as they have done before, and, as the Secretary has said, the Treasury will get "whipsawed." They will all take their gains and none of their losses.

Mr. Chairman, I sincerely hope this amendment will be voted down. I have examined into this subject very carefully. This is not a partisan matter. It is something that has been recommended and called to our attention by previous Democratic Secretaries in the same way—that under this system the Treasury was bound to lose.

Now, there is another reason why we ought not to tax these capital gains at the full rates, and that is that these capital gains are realized, as a rule, over a number of years. A man must hold the property at least two years in order to come under the benefits of this provision. He may have held the property since 1913 and the gains have gone along gradually from year to year; but if the amendment of the gentleman from Arkansas prevails, he will have to pay in one year on all the gains that should be distributed over a number of years. That is not fair. It is not fair to the farmer or to anybody who sells real property to have the gain assessed in one year that has accumulated over a number of years taxed at the same rate as other gains are taxed. There can not be any question about that. If this provision is enforced in that kind of a way it will result in the taxpayer paying more tax than in all fairness he ought to pay.

We put this at 12½ per cent. Of course, 12½ per cent is an arbitrary figure, but it is about as near as we could come to what we thought would be a rate under which more money would be realized to the Treasury, and the Treasury has been realizing under this provision a great deal more money, as all the experts of the Treasury have testified, than was realized when the law stood as the gentleman from Arkansas now desires to have it stand.

Mr. THATCHER. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. THATCHER. As I understand, these provisions apply to the larger gains, gains over $30,000.

Mr. GREEN of Iowa. About that.

Mr. THATCHER. And that these provisions do not apply to the smaller gains?

Mr. GREEN of Iowa. It does not make any difference to the smaller men. They have their option to pay the ordinary rate which they would pay.

Mr. THATCHER. Then it is no discrimination against the smaller men?

Mr. GREEN of Iowa. No. We expressly fixed it so that the man who had to pay only 5 per cent on the other gains would have to pay only 5 per cent on this, for example.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. SANDERS of Indiana. Just what amount did the gentleman say would be lost to the Treasury?

Mr. GREEN of Iowa. Somewhere between $25,000,000 and $50,000,000. I should estimate it roughly at $35,000,000, if this amendment is adopted.

Mr. SANDERS of Indiana. I will ask the gentleman whether the great danger in dealing with a revenue bill is not that as paragraph after paragraph is reached and amendments are offered in order to give apparent benefit we are apt to keep losing money for the Treasury, until finally it is not a revenue bill at all?

Mr. GREEN of Iowa. That is correct, and I agree with the gentleman.

Mr. HUDSPETH. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. HUDSPETH. If a man purchased a piece of land in 1913, sells it now and makes a profit of $200,000, under which provision would he have to pay the greatest tax—under the provision as written in the bill or under the amendment, if it is adopted, offered by the gentleman from Arkansas?

Mr. GREEN of Iowa. Under the amendment offered by the gentleman from Arkansas.

Mr. HUDSPETH. Would it not stop all sales and be a great incentive not to sell land?

Mr. GREEN of Iowa. Why, certainly.

Mr. HUDSPETH. And men would not sell?

Mr. GREEN of Iowa. That is what I have been contending. The tax on it would be so heavy that a man would say, "I can not afford to sell."

Mr. HUDSPETH. It would have a tendency to stop all transfers?

Mr. GREEN of Iowa. Yes.

Mr. HUDSPETH. Because it would result in giving all the profits to the Government?

Mr. GREEN of Iowa. Yes.

Mr. HUDSPETH. That is what happened under the excess-profits tax, and that was the reason for repealing it?

Mr. GREEN of Iowa. Yes; one of the reasons.

Mr. TILSON. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. TILSON. Was not that the reason the limit was fixed at 12½ per cent, so as not to entirely impede all sorts of transactions?

Mr. GREEN of Iowa. Yes; as the law originally stood it practically stopped buying and selling in large transactions where there was a large gain.

Mr. MILLS. Mr. Chairman, I apologize to the gentlemen of the House for speaking so frequently on this measure, but it comes entirely from my interest in seeing that a proper bill is finally passed. There are two features in any tax bill. One is the question of rates and the other is the question of administration. You gentlemen have voted into this bill the rates which you desire. It might be good politics for us to hold our hands off and let any amendments go in which would wreck this bill, but I for one will say it is certainly not my purpose to do so, and in so far as I have any information I want to put it at the disposal of this House.

Now, I recognize the sincerity of my friend from Arkansas, but he is dealing with one of the most difficult questions in the whole field of income taxation as to what constitutes income. In Great Britain the gain from the sale of capital assets is not treated as income and, therefore, they disregard the gain or loss from the sale of capital assets entirely. In this country, in our first two income tax laws, we proceeded to treat the gain from capital assets as income and we therefore found ourselves in a position where we had to permit the deduction of capital losses. Now, after the experience of some years with that particular provision the administrators, the gentlemen who are called upon to administer this law, came to Congress and said, "Gentlemen, we are losing far more than we are gaining under this provision, for the reason that men may refrain from taking capital gains, but they can always take capital losses, and not only do they always take real losses, but they take fictitious losses." It was perfectly possible, under the law as it existed prior to 1921, for a man to sell stocks or bonds, take a loss and buy back those very same bonds 30 days later. He would not have made a real loss but he would have made a loss for income-tax purposes. He might not even do that. He might, for instance, let us say, sell Southern Pacific Railroad stock one day and make a loss on it, and that very same day buy Santa Fe Railroad stock. The character of his investment would not in any way have altered but he would have made a paper loss for the purpose of income-tax returns. The Government soon discovered that. It discovered in 1920, as the gentleman from Iowa [Mr. GREEN] has told you, that the 50 largest taxpayers in this country made $11,000,000 worth of losses and only $1,000,000 worth of gains. So those men, probably, through that provision saved in taxes between $5,000,000 and $6,000,000 because of losses which in a good many cases, I can assure you, were not real losses.

The House in 1921 acted on the advice of the Treasury. When the bill went to the Senate we provided that capital gains should be taxed at 12½ per cent and that capital losses should be limited to 12½ per cent. The Senate eliminated the provision with reference to losses, so that the present situation is absolutely indefensible. A man is only taxed 12½ per cent on his capital gains, but he is allowed to deduct 100 per cent of losses. The Ways and Means Committee is trying to cure that evil. We limit taxable losses to 12½ per cent, and by so doing it is estimated we will pick up another $25,000,000 in revenue under the provisions of the bill as reported by the committee.

Mr. BLACK of Texas. Will the gentleman yield?

Mr. MILLS. I do not want to yield just now. It seems to me we would be making a great mistake to return to the system which prevailed prior to 1921. I want to say to the House that, not only based on the advice of the best experts but based on my own personal knowledge of what goes on, outside of tax-exempt securities, there is no easier means of avoiding the income tax than taking losses, principally paper losses. The proper course for us to pursue with reference to this provision and many others is to maintain the ground that we have gained, and, in my judgment, appoint a committee, probably of both Houses, to study the administration of income tax laws not only in this country but in other countries, so that many of these questions which are now doubtful may be determined in accordance with the light not only of our own experience but the experience of others. In the meanwhile, not only with reference to this section but sections to come, may I plead with the House to back up the mature opinion of the committee that studied them with care, and to back up the labor of tax experts who have labored for five or six months in order to make this bill, if possible, tax-evasion proof?

Mr. STEPHENS. Will the gentleman yield? Will you please explain in detail what method is used in reference to these capital losses?

Mr. MILLS. To effect a capital loss?

Mr. STEPHENS. Yes.

Mr. MILLS. Why, it is very simple. I gave an example last year when a bill referring to capital losses was before the House. Assume that in 1917 X bought 5,000 shares at par for $500,000, X being a man with an income of $250,000——

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. TILSON. Mr. Chairman, I ask unanimous consent that the gentleman from New York have two minutes additional.

Mr. STEPHENS. I ask unanimous consent that the gentleman be allowed five minutes additional.

Mr. OLDFIELD. Mr. Chairman, the time has been fixed by the committee. Of course, the committee can fix further time if it desires.

Mr. GREEN of Iowa. I think we have had sufficient time.

The CHAIRMAN. Does the gentleman from Arkansas want to use the balance of his time?

Mr. OLDFIELD. I want to use the balance of my time.

The CHAIRMAN. The gentleman is recognized for two and a half minutes.

Mr. OLDFIELD. Mr. Chairman, I appreciate what the gentleman says about the situation.

Mr. STEPHENS rose.

The CHAIRMAN. For what purpose does the gentleman from Ohio rise?

Mr. STEPHENS. I rise for information. Was unanimous consent to Mr. MILLS proceeding objected to?

Mr. GREEN of Iowa. The time has already been fixed in the committee.

Mr. STEPHENS. And we can not extend it by unanimous consent?

Mr. GREEN of Iowa. No.

Mr. STEPHENS. If it can not be extended, all right. If it can, we ask unanimous consent for this purpose, and would like to have our request considered if it is in order.

The CHAIRMAN. Will the gentleman from Ohio prefer his unanimous-consent request?

Mr. STEPHENS. My unanimous-consent request was that the time of the gentleman from New York [Mr. MILLS] be extended five minutes. The gentleman was giving us very valuable information.

Mr. SANDERS of Indiana. I respectfully submit, Mr. Chairman, that request for unanimous consent is not in order. The only request that is in order is that the gentleman may have time not to be taken out of this time because the time is controlled by the committee.

Mr. STEPHENS. I ask unanimous consent that the gentleman have five minutes' time, not to be taken out of the time that has been designated.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the gentleman from New York have five minutes, the same not to be counted against the time already allotted by the committee. Is there objection?

Mr. GREEN of Iowa. Mr. Chairman, reserving the right to object, is there any more time going to be asked beyond that? We can not spend all day on this one item.

Mr. STEPHENS. Mr. Chairman, we are here for information.

The CHAIRMAN. Is there objection?

Mr. STENGLE. I object, Mr. Chairman.

Mr. OLDFIELD. Mr. Chairman, Mr. MILLS spoke about the law in Great Britain. I do not know what the law is in Great Britain, and neither does Mr. MILLS know what their law is on this question. The Treasury Department has not been able to tell us. They do have certain land taxes, landlord taxes, and various other taxes over there that we do not know anything about.

Gentlemen, there is another question involved in this matter. I think this provision of the law has done more to increase rents in this country than any other one provision in it, and I will tell you why. They sold properties, apartment houses and land, in this town and in New York and everywhere else at immensely inflated prices because they could sell those properties and pay only 12½ per cent. It would have been better for the people of America if they had kept those properties, as Mr. GREEN predicts they would have kept them. It would have been better if they had kept those properties, because then the rents of this country would not have been so high, because these immense profits, these stilted profits, have been capitalized, and the people of America, in every city of this country, are paying rent on that high capitalization due to inflation and due to this provision in this law. That is the situation, and you ought to vote this out, and I believe that you will vote it out. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas.

The question was taken; and on a division (demanded by Mr. OLDFIELD) there were—ayes 56, noes 120.

Mr. OLDFIELD. Tellers, Mr. Chairman.

Tellers were ordered, and the Chair appointed Mr. GREEN of Iowa and Mr. OLDFIELD as tellers.

The committee again divided; and the tellers reported that there were 58 ayes and 137 noes.

So the amendment was rejected.

The CHAIRMAN. On page 5, when paragraph (c) was being read a motion was made to strike out paragraph (c), which was to be considered with this section.

Mr. OLDFIELD. Mr. Chairman, the gentleman from Iowa and myself have agreed on an amendment to be offered to paragraph (c), on page 5.

Mr. GREEN of Iowa. Mr. Chairman, I ask that this be passed, because I have not the amendment at hand.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that paragraph (c), page 5 of the bill, be passed for the present. Is there objection?

There was no objection.

The Clerk read as follows:

EARNED INCOME.

SEC. 209. (a) For the purposes of this section—

(1) The term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

(2) The term "earned income deductions" means such deductions as are allowed by section 214 for the purpose of computing net income, and are properly allocable to or chargeable against income.

(3) The term "earned net income" means the excess of the amount of the earned income over the sum of the earned income deductions. If the taxpayer's net income is not more than $5,000, his entire net income shall be considered to be earned net income, and if his net income is more than $5,000, his earned net income shall not be considered to be less than $5,000. In no case shall the earned net income be considered to be more than $20,000.

Mr. GARNER of Texas. Mr. Chairman, I offer the following amendment, to go in at the end of line 6, page 28.

The Clerk read as follows:

Amendment offered by Mr. GARNER of Texas: Page 28, at the end of line 6, insert "earned income also means reasonable compensation or allowance for personal services where income is derived from combined personal services and capital in the production by unincorporated persons of agricultural or other business.

Mr. GARNER of Texas. Mr. Chairman and gentlemen of the committee, I hope you will not think I am offering amendments for any purpose except what I believe will improve the bill. I want to say to my Republican friends, as I said to the Committee on Ways and Means this morning when we were discussing a certain amendment—I said to the Democrats on the committee, "Gentlemen, I hope you will be careful in offering amendments to this bill because we do not want to put the bill in such a condition that when it goes to the Executive he will have any reason to veto it." And I hope the gentlemen will understand when I offer an amendment that I am doing so in the belief that I am improving the bill and in no way impairing its efficiency or to give the Executive any reason for vetoing it.

Now, you know what this amendment is. You are now considering what is known as the earned-income definition. I wish I had this printed, but if you will turn to page 27 of the bill you will find in subdivision 1, "the term 'earned income' means wages, salaries, professional fees, and other amounts received as compensation for services actually rendered." That was all that was in the original bill. If you get the original Mellon bill you will find that is all that was in that bill as far as the subject of earned income is concerned. But the Ways and Means Committee put in this additional language, "and other amounts received as compensation for personal services actually rendered." That was an amendment by the Ways and Means Committee itself.

I did not object to that amendment, although I do not see any great necessity for it, because the only persons that would be benefited would be some receivership or activities of that nature, which did not concern me in getting a 25 per cent reduction.

But I am concerned about the merchant and the farmer, because I believe he earns his income just as much as the wage earner or the professional man or the salaried man. For instance, do you not believe that the merchant doing business in a store on the corner of a street in your town working 10 or 12 hours a day making $10,000 a year is earning his income just as much as the man who sits upstairs in an office over him and earns $10,000 a year as a doctor or a lawyer? This amendment I propose will take care of that situation. The reason they advance for not adopting this amendment—and it is a pretty good reason, I can not make light of it because it will be a difficult problem for the Treasury Department, but I believe the department can solve it—they say it will be difficult to administer, and that is the only reason they give. I will ask the gentleman from New York, who opposed the amendment and defeated it—and there was not a chance to defeat it except by giving all men having an income of $5,000 and less credit for earned income. The gentleman offered that amendment. Now, this amendment does not apply to any income except between $5,000 and $20,000.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. GARNER of Texas. I shall have to ask for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MOORE of Virginia. Will not the gentleman explain his amendment?

Mr. GARNER of Texas. Let me read the amendment.

Earned income also means reasonable compensation or allowance for personal services where income is derived from combined personal services and capital in the production by unincorporated persons of agriculture or other business.

In other words, it applies to incomes from mercantile business and the farming business where the income is not over $10,000 a year. The Treasury Department says it is difficult to administer the law, and I expect it will be. And the principal reason is the difficulty of ascertaining the capital investment.

I admit that difficulty, but that is a small difficulty with small people having incomes between $5,000 and $10,000 and is not as effective as it would be with corporations incorporated for millions or hundreds of millions of dollars. I yield to the gentleman from North Dakota.

Mr. BURTNESS. The gentleman has already answered the question, and that is whether or not the gentleman would eliminate the earned-income feature of $5,000.

Mr. GARNER of Texas. No; I would not. If you put this language in the bill, you do not need that. Mr. Rockefeller, under the $5,000 provision, will get 25 per cent reduction up to $5,000.

Mr. BURTNESS. Might I suggest that if you eliminated that language the persons in the Treasury Department who would determine what a farmer earns would probably claim that the earned income amounts to $1,000 or $2,000?

Mr. GARNER of Texas. That is a matter of administration. I do not know what my side of the House will say to me when I make the suggestion, because I have not consulted the Ways and Means Committee, but I do hope that in the course of the discussion and consideration of this bill, before we finally send it to the Senate, we can get a record vote on this proposition. I think it is most indefensible to say that a lawyer, a doctor, a bank cashier can have a reduction of 25 per cent and that you can not give the same reduction to a farmer or a small merchant. I have fought for it in the committee, and I am going to do my best here, and some time later on perhaps an opportunity will be afforded for everyone to vote upon it. I am not telling any secret when I say that if the gentleman from New York [Mr. MILLS] had not gotten in his amendment exempting everybody up to $5,000, undoubtedly the committee would have adopted this amendment.

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. CHINDBLOM. Assuming the Treasury Department had gotten beyond the very difficult question of determining the amount of investment, then how would you fix the rate of income in that investment?

Mr. GARNER of Texas. I would leave it just as the language is here, "reasonable compensation." You can not write a law and you have never written a revenue law where you did not give the Treasury Department some discretion in ascertaining the facts.

Mr. CHINDBLOM. I do not think there is another provision in this bill where the Treasury Department would have discre-

tion to determine how much profit or earnings a man should make.

Mr. GARNER of Texas. The gentleman may be right about that; but this applies to a very small class of people, and they are just as deserving as the bank cashier. Here is a bank cashier who gets $10,000 a year, and here is a merchant working twice the number of hours that the cashier does, who has a store across the street and who deposits the money in the bank where the cashier is. One gets 25 per cent reduction and the other is given no reduction.

Mr. MOORE of Virginia. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. MOORE of Virginia. I think the gentleman is right in criticizing this classification, which puts in one group of people and leaves out another group. Personally I very much doubt whether a court would uphold any such classfication. It is an arbitrary classification that is not warranted by any fact.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. GARNER of Texas. Mr. Chairman, I ask unanimous consent to proceed for one additional minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BLACK of Texas. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. BLACK of Texas. Is it not the opinion of the gentleman that this whole section would introduce a new complication into our income-tax laws and ought not the whole thing to go out?

Mr. GARNER of Texas. There is a good deal of argument back of what the gentleman says.

Mr. BLACK of Texas. I just wanted to give notice that I am going to offer an amendment to strike it all out.

Mr. GARNER of Texas. How can you say, and how can anyone say, that I should have or Mr. MILLS should have or Mr. Mellon should have, or anyone else with large incomes should have a deduction of 25 per cent for earned income up to $5,000? That was a foolish thing to do—to give a man with a million dollar income a reduction of 25 per cent on earned income up to $5,000. It was done only for the purpose of defeating this particular amendment and this particular amendment was defeated only because it is difficult of administration, and I believe Mr. MILLS is very conscientious and perfectly frank about it.

Mr. MILLS. Mr. Chairman, the gentleman from Texas [Mr. GARNER] is quite right in saying that there is no question of principle involved here. This is a straight question of administration. When the committee of experts were engaged in drafting the provisions of this bill they sought to do the very thing which Mr. GARNER wants to do, and that is to define "earned income" in a comprehensive way. Earned income, of course, is very easy to define when a man's total income comes as a result of his own personal efforts, but if part of his income is derived from personal efforts and part from capital then there is presented a very difficult problem from an administrative standpoint, as all can readily see. There are two methods of procedure for segregating these two different kinds of income. You can either determine the amount of capital invested in the business and then allow a reasonable return on that capital—two very difficult questions—and then say that all of the rest of the income is derived from personal effort, or you can approach it from the other angle and attempt to determine what the man's own personal services are worth and ascribe the balance of the income to capital. The department found that in dealing with the question of invested capital in the case of a few hundred thousand corporations it was absolutely impossible as a practical matter to determine what invested capital was, and it became apparent, therefore, that in the case of 3,500,000 taxpayers, if the department had to examine each separate return and determine in every case the amount of capital invested why administration would inevitably break down.

Mr. BEGG. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I have only a very few minutes. When the department, after trying many drafts to accomplish what the gentleman from Texas [Mr. GARNER] seeks to accomplish to-day, finally determined that it could not draft a satisfactory definition they examined the returns.

They examined the returns, and if you will turn to the returns for 1921 you will find that out of a total of about $18,000,000,000 reported under the personal-service item no less than $14,000,000,000 came from salaries, wages, commissions, and bonus. The bill as originally reported then took that definition, which covered 85 per cent of the earned income, recognizing very frankly that an injustice was being done to 15 or 20 per cent of earned income in other cases. When we got into committee—and I am telling you the story just as it occurred—I met one day Doctor Adams, who is not only one of the best theoretical experts but one of the most practical administrators of the income tax laws, and Doctor Adams said to me, "MILLS, the only thing for you to do in the case of this earned-income proposition is to adopt an arbitrary limitation." He said, "If you take $5,000 as an arbitrary limitation, I think you will cover over 90 per cent of the earned incomes in this country to-day, and you will do substantial justice without ruining the administration of the law."

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MILLS. Mr. Chairman, may I have three minutes more?

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for three minutes more. Is there objection?

There was no objection.

Mr. MILLS. I examined the figures, and I found, as I have already told you, that under the bill as originally reported we did injustice to perhaps 20 per cent of the earned incomes. But if in addition to the definition in the original bill we give an exemption of $5,000, I believe we could take care of 90 per cent of that 20 per cent, and if there is any injustice done, why, of course, it is done only above the lower brackets.

What is the use in coming here and talking about discriminations against the farmer? How many farmers are earning a net income of $5,000 a year? If they are earning $5,000 a year, they get the full benefit of this earned-income provision. What is the use of talking about the small storekeeper if he is earning $5,000 a year? He gets the full benefit. It is only when you get into the upper brackets that there is any possible injustice, and then I make the flat assertion that the gentleman's criticism applies only to a very small fraction of earned income. On the other hand, I submit that every administrator I have consulted has reached the same conclusion, that it is literally impossible to segregate income from property and income from personal service in the hundreds of thousands of individual cases which would be covered by the amendment of the gentleman from Texas.

Mr. BURTNESS. Mr. Chairman, will the gentleman yield?

Mr. MILLS. Yes.

Mr. BURTNESS. Can the exemption—for instance, the family exemption—be taken away from the earned income?

Mr. MILLS. Oh, no. We give a 25 per cent reduction of the tax on the first $5,000 of net income.

Mr. BURTNESS. I did not get the gentleman's argument when he suggested $7,500.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. BEGG. Mr. Chairman, I ask that the gentleman's time be extended two minutes. I want to ask the gentleman a question on his statement.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the gentleman from New York may have two minutes more. Is there objection?

There was no objection.

Mr. BEGG. If the Garner amendment were adopted, would not that multiply by an untold factor the opportunities for dispute between the Government and the taxpayer in ascertaining capital investment?

Mr. MILLS. The gentleman must recognize that in every one of these thousands of cases there would be a dispute between the taxpayer and the Government as to what his personal services were worth and what his return on his capital should be worth; and in the case of the small storekeeper or the farmer who does not keep books the administrative difficulties would be literally insuperable.

Mr. BEGG. And the added fact that it is more difficult to ascertain the capital invested on a farm if the man has had it 15 or 20 years than it is on any kind of corporation, is it not?

Mr. MILLS. I should say so, but I am not a farmer.

Mr. BEGG. It seems to me it would be wholly unworkable, and the small man who would have that dispute could not afford to hire an expert attorney to come down and plead his cause.

Mr. MILLS. I understand one thing that these farm organizations have been trying to do is to get the farmer to keep books so that he will know what he is getting on his capital but that to date they have been unsuccessful.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. MILLS. Yes.

Mr. NEWTON of Minnesota. Have not the English had trouble in this matter because they did not have provisions of this character?

Mr. MILLS. Yes. I have studied the English law, and never in my life have I found anything so difficult as to understand those provisions.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. TILSON. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The gentleman from Connecticut offers an amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. TILSON to the amendment offered by Mr. GARNER: After the Garner amendment, strike out the period, insert a colon, and add the following: "*Provided*, That the total allowance for earned income in addition to the $5,000 herein provided for shall not in any case exceed 20 per cent per annum of the net income from such business, as reported by the taxpayer for the tax year, and shall not in the aggregate exceed $20,000."

Mr. TILSON. Mr. Chairman, the gentleman from New York [Mr. MILLS] has made it so plain that it seems to me there ought to be no misunderstanding of this provision. He has shown that it is physically impossible for the Treasury to carry out the purposes sought to be effected by the amendment of the gentleman from Texas [Mr. GARNER], and that if that amendment is adopted, it will do more than anything else could do to break down the administration of this part of the income tax law.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield right there?

Mr. TILSON. I do.

Mr. GREEN of Iowa. I have been particularly enthusiastic about this provision, but if I wanted to beat it and fix it so that it would not be operative I would ask that the amendment of the gentleman from Texas be put in there.

Mr. TILSON. It should not be put there. But if the amendment of the gentleman from Texas is put in, there should be a limitation put to it.

One who, because he has an investment which will yield well up toward $20,000 and gives only a bit of his time to it, should not be permitted to take advantage of this reduction in his tax to the full amount of his income from his investment.

Mr. GARNER of Texas. Will the gentleman yield?

Mr. TILSON. Yes.

Mr. GARNER of Texas. If the gentleman's amendment should be accepted, would the gentleman and his associates agree to support my amendment?

Mr. TILSON. I told the gentleman frankly that I would not, because I think that it would break down in its administration, in fact, that it can not be administered, but if the amendment must go in I think this limitation should be put in, so that a man who gets most of his income from an investment should not be able to take advantage of it all as earned income.

Mr. GREENWOOD. Is there any scientific reason for fixing it at 20 per cent? Has the gentleman studied the question and determined why it should be 20 per cent?

Mr. TILSON. It is arbitrary, of course; but I think it is fair, if a man, for instance, has an income of $50,000 from his business to provide that he shall not be entitled to a preferential rate as earned income on more than $10,000 of it over and above the $5,000 already allowed him.

Mr. GARNER of Texas. The gentleman should not use the amount of $50,000 but should use the limit of $20,000.

Mr. TILSON. I mean where his income from services and capital is $50,000 and is not limited in any way.

Mr. GARNER of Texas. Yes; it is limited to the activities of men in business and is limited to $20,000.

Mr. TILSON. Yes; but 20 per cent of $50,000 is only $10,000, and I am talking about an income within the limitation.

Mr. GREENWOOD. His business would have to yield $100,000, as I understand the gentleman's amendment, before he would get an income of $20,000?

Mr. TILSON. It would; yes.

Mr. McSWAIN. In view of the fact that the gentleman's amendment would not be subject to amendment, would he not agree to accept a suggestion to offer an amendment making it 50 per cent and for this reason: Has not my friend seen a merchant who was earning, by giving 12 or 15 hours a day to his business, $10,000 or $15,000 a year, and then when he dies, the personality being gone from the place, the whole thing, lock, stock, and barrel, fixtures, and all, would not bring $15,000?

Mr. TILSON. Well, that man, under my amendment, if his income was $50,000——

Mr. McSWAIN. I said $15,000.

Mr. TILSON. Then he would get 20 per cent of that, which would be $3,000, in addition to the $5,000. So he would get credit on $8,000 as earned income. It seems to me that would be fair and that there ought to be some limitation if this amendment is to go through.

Mr. GREEN of Iowa. Mr. Chairman, I move that all debate on this amendment close in 10 minutes.

The motion was agreed to.

Mr. CHINDBLOM. Mr. Chairman, in the remarks which I made on Monday last upon the entire bill I inserted, at page 2674 of the CONGRESSIONAL RECORD, figures which I had obtained from the legislative reference service in the Library of Congress with reference to the income of various classes of our population. In the industrial groups, based upon income-tax returns for 1921, sole proprietors of businesses earned the following average incomes: Agriculture and related industries, $1,758; mining and quarrying, $2,885; manufacturing, $3,332; construction, $3,330; and transportation and other public utilities, $2,141 per annum—all per annum.

In the various trades sole proprietors, according to the income-tax returns of 1921, had the following incomes per annum: Public service, professional, amusements, hotels, and so forth, $2,964; finance, banking, insurance, and so forth, $3,619; special cases, businesses not sufficiently defined to be classed in any other division, $2,811.

I think these classes include practically all the people who might be reached by the amendment proposed by the gentleman from Texas [Mr. GARNER]. A deduction of $5,000 for earned income will certainly reach practically every farmer and practically every small storekeeper in the land. I think we have a right to legislate in the light of conditions which exist and in the light of facts which are known. We never could pass any revenue law if we were to base it merely upon theory, speculation, or deduction. Revenue laws are always more or less inaccurate and always more or less unjust, so that our purpose must be and should be to make them as nearly fair and as nearly equitable as may be possible. This deduction of the tax on $5,000 will certainly, within the knowledge and personal experience of every man in this House, cover every man now involved, every small storekeeper, and every farmer, referring now to the particular classes that have been mentioned.

Mr. McKEOWN. Will the gentleman yield?

Mr. CHINDBLOM. I have very little time.

Mr. McKEOWN. I just wanted to know whether there would be any objection to increasing it to $7,500?

Mr. CHINDBLOM. Well, I will say this: I would not care particularly whether you raised it to $7,500, if the Treasury can stand the drain.

Now, there has been some rather jocular reference to this deduction of $5,000, as if it did not meet any real conditions. I want to name a class of persons who can not be reached in any other way than by a provision of this sort. I refer to the beneficiaries of trusts—children, for instance, who are under guardianship, incompetent persons under conservatorship, and other people who are receiving incomes from trust estates. They do not and can not earn their incomes, but they are benefited by this provision for a deduction of $5,000. This amount of their income will be considered as earned income in their behalf.

With reference to the other classes, they are amply able to take care of themselves. The total allowable deduction is $20,000, although, as everybody knows, there was no limitation in the Treasury draft which was sent to the committee. The committee considered this proposition, gentlemen, for a very long time, and in the light of every conceivable circumstance and of all the information that could be obtained. Then, also, consider the difficulties which are going to arise when the Treasury Department begins to try to determine what is the invested capital of a farmer with 80 or 160 acres of land and how much of a percentage he should be allowed as earnings upon his investment. A man of small means will have no opportunity to come to Washington and make his protest or his complaint, because his interest is not sufficiently large.

We have provided a deduction of $5,000, and I think it is equitable; I think it reaches not only 99 per cent, but I will say 999 out of every 1,000 of these taxpayers.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GREEN of Iowa. Mr. Chairman, in view of the demand for additional time, I ask unanimous consent that the time for debate upon this amendment be extended 10 minutes further.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that the time be extended 10 minutes, making 15 minutes altogether. Is there objection?

There was no objection.

Mr. BEGG. Mr. Chairman and gentlemen of the committee, it would seem to me that if this amendment were adopted the cost of administering the same and the dissatisfaction over its adoption would be many times greater than the benefit received by the people supposed to be covered. I believe that it is a safe statement to make that three-fourths of the criticism of the income tax to-day is because of the dissatisfaction with the settlements made on the value of the investment rather than the amount to be paid by the taxpayer, and I can conceive of absolute conditions where nobody could make a just settlement. I can take $10,000 to-day and go into any State in the Union and buy more land for $10,000 than three years ago I could have purchased for $25,000. If I buy my farm to-day, and you bought yours three years ago, and they are side by side and both alike in productiveness, and in every respect produce the same, would there be any equity in this particular amendment if applied to both of us?

It would be absolutely impossible to found your taxes on satisfaction of the amount levied if you left it to a man in a department down here who probably never saw a farm to determine the capital asset. It seems to me that is a great weakness. It is even more difficult on the farm than it would be in a little store, yet in a little store the same kind of a difficulty might arise.

I believe another safe statement to make is that 50 per cent of the value of the capital invested in the little stores is in good will. You can invest $25,000 in a little store, and if you have somebody at the head of your management who is not adaptable to that particular line of business the production on your capital asset would not produce an earning on one-fifth the amount invested, whereas you may take one-fifth of the amount invested and because of the good will that goes by the name of John Smith or John Jones the production may show an earning on an investment several times as great.

Therefore it would seem to me that if you want to do something in this bill that will magnify the dissatisfaction in this country over taxes, and particularly income taxes, the best way I know to do it would be to put a provision in here leaving it to the arbitrary decision of any man or any set of men in Washington to say what is the capital investment in Ohio either in a farm or in a small business.

If the $5,000 offset as earning is not high enough, do what my friend the gentleman from Illinois [Mr. CHINDBLOM] suggested that he would not oppose, raise it to $7,500 or $6,000 or any other figure.

Mr. CHINDBLOM. I said depending upon the conditions in the trade.

Mr. BEGG. I meant to quote the gentleman accurately; but by all means do not adopt an amendment that is going to multiply the difficulties of administration by nobody knows how much.

Then another feature is that 90 per cent of the people who have come to me as their Representative to arrange some kind of hearing for them in the Internal Reveune Bureau have been in dispute on the amount of capital invested and what should be allowed as capital investment.

Let us take the little man again. Let us say that in 1918, when farm prices were at the peak, he bought a farm for $250 an acre, and some man, after this law is in effect, in basing his figures on the average price of land over a period of five years should find that the average price of land in that community over that period of five years was $125 an acre, just one-half the actual investment, could you imagine the state of mind of that farmer when he goes back home and gets a letter saying that his capital investment claim of $250 an acre has been disallowed? I know cases, and could give the names and the places, where an arbitrary decision was made in the Internal Revenue Bureau that the value of a farm lying near a community should be taken back to 1913, at $85 an acre, when it sold on the market two years later than that for more than $500 an acre, and sold during the period of high prices for between $900 and $1,000 an acre. This was an arbitrary decision, and when it was carried to the board of appeals they said, "Support your decision and your claim by affidavits," and the Government sent men out to secure affidavits, and they secured affidavits from men who were engaged in a rival business, motivated by revenge as much as anything else, who swore that the land in 1913 was only worth $85 an acre, multiplying, as I said, the dissatisfaction to the taxpaying public.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. BURTNESS. Mr. Chairman, as I looked at the definition of earned income, as this bill first came from the Treasury to the Ways and Means Committee, I felt that the definition and its application in practice would have been positively ridiculous and unfair to a very large percentage of the taxpayers of this country. I personally went before the Ways and Means Committee and opposed that definition and suggested some change be made which would include the very men whom the gentleman from Texas has in mind in proposing his amendment here this afternoon. But I am entirely well satisfied with the practical proposition which has been adopted by the Committee on Ways and Means and which is found in this bill. I think everyone will concede that it is a much more practical and a fairer proposition than if you imposed no limits whatsoever, no minimum limits and no maximum limits, and then accepted the amendment proposed by the gentleman from Texas, for then the situation, of course, would be that some man here in the Treasury Department would determine how much of a storekeeper's income or how much of a farmer's income is the result of his work and how much of it the result of the capital invested. Very few of such representatives of the Government would have granted $5,000 as actually earned income; hence the decision of the committee arbitrarily regarding $5,000 as earned income serves the purpose very much better. But so much for that. I want, however, to make this prediction to-day. Although I am ready to vote for this provision with reference to earned income deductions, and regard it correct on principle, I am inclined to think that two or four or six years hence you will find there has been so much difficulty in administering this provision that there will be a great deal of sentiment in favor of wiping out any provision whatsoever for earned income deductions.

Mr. BLACK of Texas. Will the gentleman yield?

Mr. BURTNESS. I have not the time. I have just a few minutes and there are several things I want to discuss.

We had some experience with this sort of a provision in our own State and we wiped it out at the last session of the legislature. But I want to remind you that the $5,000 is not the maximum which a farmer or storekeeper can earn and still have the benefit of this reduction on all of his tax. As a matter of fact, the $5,000 is earned net income, and the total earned income for him may be $6,000 or $7,000. If no more than $5,000 remains after the deduction set out in section 204, he gets the benefit of the reduction on $5,000, even though his gross income may be $7,000 or $8,000.

At the proper time I shall offer an amendment, and I want to explain it now, and that is, to change the word "net" in line 13 to "taxable." If the gentleman from New York [Mr. MILLS] is correct as to the intent of this section, that it means that a person is to have the benefit of the reduction on the first $5,000 in taxable income—that is, his income after family exemptions have been deducted—then this amendment is absolutely necessary, because as the bill now stands it can only be allowed upon what is defined to be "earned net income," and you will find the definition of that in the section now under consideration.

If my amendment carries, it will give a person who has a total net income of $7,000, with a family exemption of $2,000, thereby leaving $5,000 in taxable income—the enactment of my amendment will give him the right to treat all of such $5,000 as earned income. Otherwise the situation of such farmer or merchant will be that the $7,000 is the total net income, and $5,000 is net earned income, and they would have to figure up the proportion of the total earned income and the total net income. In other words, he would only get the earned reduction on 50/70 of the $5,000. What I want is to give him the privilege of regarding everything up to that figure as earned income, and to do that my amendment must be adopted; otherwise a person with only or a little more than $5,000 actual taxable income will not receive the benefit of a reduction on $5,000 in many cases. In fact, his reduction might in effect really be on only $3,000 or $3,500; that is, the relationship of the arbitrary earned net income to his total net income might be in such percentage in the case of total incomes of six or seven or eight thousand as to treat but a percentage of the $5,000 as entitled to the credit of an earned deduction. The deduction does not under the present wording of the bill apply to the first $5,000 of taxable income, but to the first $5,000 of net earned income. I only desire to make the bill do what the gentleman from New York [Mr. MILLS] a few minutes ago stated that it would do when he said that $7,500 might be the income of a taxpayer, and if he had exemptions amounting to $2,500, the deduction could apply to all of the amount remaining—

that is, upon $5,000—even though the $7,500 was the result of a combination of personal work and invested capital.

Mr. GARNER of Texas. Mr. Chairman, I will ask for only two minutes, as I have agreed to let the gentleman from Massachusetts have three minutes of my time. I will occupy it by calling attention to the fact that every gentleman who has spoken on the subject admits that the definition ought to go in the bill if it was not for the $5,000 exemption. Every gentleman says that if it is possible to do so, the merchant and the farmer ought to be in the same condition as the lawyer and the doctor. They give as a reason for it, as the gentleman who has preceded me has just said, that they will have certain exemptions, that the lawyer will have certain exemptions, and the doctor will have certain exemptions, and the bank cashier will have a certain exemption; and I am unwilling to discriminate against the farmer and the merchant who earns his income as much as the banker or the lawyer and the doctor. It is a matter of principle that is involved here, whether you are going to favor the doctor and the lawyer and the bank cashier with a 25 per cent reduction and not give the exemption to the farmer and the merchant. I will agree with the gentleman from Illinois that this was all considered for three or four days in committee. It was not adopted because the gentleman from New York did not want us to adopt the amendment and the only way he could prevent it was to make the income up to $5,000 earned income. If it had not been for that this would have been in your bill now. I think that the amendment ought to be adopted so that you will not discriminate against the merchant or the farmer.

Mr. ANDREW. Mr. Chairman, I appreciate very much the courtesy of the gentleman from Texas in giving me three minutes. With the progress that is being made in the consideration of the bill, the time is rapidly approaching when Congress will have to deal with adjusted compensation. It is a matter of concern to a vast majority of the Members of the House; and when we have finished this bill there should be a bill reported out dealing with the question of adjusted compensation, which can be at once given attention on the floor of the House.

Conditions have changed in certain respects with the passage of the years. More than 300,000 of the soldiers and sailors who served their country in the war and who would have been entitled to the benefits of this measure have passed beyond the range of earthly reward. Their heirs should now be included among the beneficiaries of this bill.

The long delay in the adoption of the measure has made some of the benefits provided in the bill, such as vocational training, of doubtful value.

The reduction in taxes, the ultimate form of which is not yet predictable, creates a situation in which the remaining revenues of the Treasury can not now be foreseen, and makes it at least doubtful what balance will be left.

On all of these accounts it has seemed appropriate to reconsider some of the provisions in the adjusted compensation bill while safeguarding our obligations to the veterans. I have therefore introduced an alternative to the adjusted compensation bill before us for the last two years, and this alternative bill I should like to bring to the attention of the Members of the House. It attempts to meet the changed conditions and at the same time give the veterans that which is their manifest due.

This bill provides benefits not merely for the veterans who have survived until this long-delayed measure has become a law, but it extends these same benefits to the heirs of those who died during the war or in the years that have elapsed since the war ended. Certainly neither logic nor justice would warrant discriminating between the heirs of those veterans who die after the law goes into effect and the heirs of those who have died before. If we are to provide adjusted compensation for the former, we are equally bound to provide it for the latter, whose losses are the more severe and whose situation is the more appealing and deserving.

The bill eliminates all benefits to officers and confines the advantage of its privileges to enlisted men. The argument for adjusted compensation has always been based upon the enlisted men's pay of $1 or $1.25 per day. This argument and the schedules based thereon are not equally applicable to officers and their pay, and the line of demarcation between captains and higher officers has always seemed arbitrary. I have heard of many captains and lieutenants who protested that adjusted compensation was not due them, but seldom an enlisted man.

It has been claimed that the bill which has been before Congress is unduly complicated and contains provisions the execution of which would involve an unnecessary amount of bookkeeping and a very extensive bureau for its administration. Take, for instance, the Government loan features. If a veteran wanted to borrow, he would have to fill out at the post office an application for the loan and hand in with it his own promissory note and his service certificate, and these three documents would then have to be forwarded to the Secretary of the Treasury, who in turn would have to pass upon the application and, if he approved, issue an acknowledgment, in triplicate, before the loan to the veteran could be made. All these transactions would have to be duly recorded on the books of the Treasury and of the post office, and the same procedure would have to be repeated as often as the veteran made any payment either for interest or principal on his note. Such a complicated process in making and repaying loans, it must be admitted, would involve unconscionable paper work, delays, and possibilities of errors, which would be as unsatisfactory to the veteran as it would be expensive to the Government. This whole complicated system of recording and repaying loans through the post office and the Government Treasury has been eliminated in the present measure, and a method has been substituted by which a veteran can obtain a loan, when necessary, from any incorporated bank.

We have heard it said that because of the difficulty of forecasting the probable choice among alternative options in the original bill it is impossible to foretell exactly the expense that will be involved during successive years. The measure which I have presented eliminates these unpredictable factors and makes it possible to calculate the definite cost for each year by simply applying actuarial tables to the easily accessible records in the War and Navy Departments.

The fear has been expressed that the adjusted compensation bill before Congress involves so large an expenditure of money in the next few years as to interfere, if adopted, with any immediate and substantial reduction in taxes. I believe that these fears are unjustified, and have heretofore presented to Congress the reasons for my belief; but the modified adjusted compensation bill now presented involves so little expense during any of the next 25 years as to eliminate any possible ground for apprehension about our current program of tax reduction. Congress can not only reduce taxes for the future to the full extent recommended by the Secretary of the Treasury, but can also make that reduction retroactive to an almost like amount as has been proposed by the Committee on Ways and Means. The adjusted compensation bill herewith presented would not cost more than $100,000,000 in any of the first four years and would not cost on the average more than $35,000,000 annually for the 20 years succeeding.

The bill which I have introduced contains the following modifications of the original bill:

(1) It adjusts the compensation of the heirs of veterans who have died on the same basis as the compensation of veterans who still live.

(2) It limits adjusted compensation to enlisted men.

(3) It eliminates the option of vocational training, which now that six years have elapsed since the war ended would have substantial value for few veterans.

(4) It substitutes for the former farm and home aid and Government loans the privilege of loans from incorporated banks and trust companies.

(5) It calls the adjusted service certificates provided in the original bill by a name which clearly shows what they really are—fully paid insurance policies.

(6) It extends these policies from 20 to 25 years.

(7) It makes the one essential feature of adjusted compensation a fully paid insurance policy based in amount upon the length of the veteran's service in the war, payable to the veteran at the end of 25 years if he lives or to his beneficiaries and heirs in case of his death in the intervening time, and it makes this policy available as collateral for bank loans.

Mr. TILSON. Mr. Chairman, I ask unanimous consent to modify the amendment that I introduced. After consultation with Mr. Beaman, I want to put it in a little different form, leaving it the same in substance, so that it will limit the personal services over and above $5,000 to 20 per cent of the profits from the business.

Mr. GARNER of Texas. Mr. Chairman, I have no objection to the gentleman's offering that amendment, but I hope that in offering the amendment it is not the purpose to destroy the amendment which he says he will not vote for.

Mr. TILSON. It does not; but it makes it much better, I think.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent to modify his amendment. The Clerk will report the modified amendment.

The Clerk read as follows:

Amendment offered by Mr. TILSON: After the Garner amendment, strike out the period and insert a comma and the following: "but not exceeding 20 per cent of the net profits of the taxpayer from the business in connection with which his personal services are rendered."

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Connecticut to the amendment of the gentleman from Texas.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. GARNER of Texas. Mr. Chairman, I do not believe I shall call for a division. I do not like to see this discrimination. I shall accept the gentleman's amendment and hope that some gentleman on his side will see the necessity of putting them all on a parity.

Mr. YOUNG. Mr. Chairman, I call for a division.

The committee divided; and there were—ayes 69, noes, 40.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Texas [Mr. GARNER], as amended.

The question was taken; and on a division (demanded by Mr. GARNER) there were—ayes 116, noes 117.

Mr. GARNER of Texas. Mr. Chairman, in view of the closeness of the vote, I demand tellers.

Tellers were ordered, and Mr. GREEN of Iowa and Mr. GARNER of Texas were appointed to act as tellers.

The committee again divided; and the tellers reported—ayes 141, noes 134.

So the amendment was agreed to.

Mr. BURTNESS. Mr. Chairman, I have an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. BURTNESS: Page 28, line 13, after the word "taxpayer's" strike out the word "net" and after the word "income" insert "subject to tax"; and in line 15 omit the second word "net" and after the second word "income" insert "subject to tax."

Mr. GREEN of Iowa. Mr. Chairman, I am sure the amendment of the gentleman does not accomplish what he wants to accomplish. If he desires, I shall ask unanimous consent to pass this over temporarily, with permission to return to it, so that he may consult the experts and get the kind of amendment he desires.

Mr. BURTNESS. Mr. Chairman, I feel certain that the amendment accomplishes what the gentleman from New York [Mr. MILLS] said the bill does, namely, provide for tax of that portion of the income which is taxable, and certainly the language of the bill now does not do what the gentleman from New York said it did in his argument.

Mr. GREEN of Iowa. I did not hear the gentleman from New York make his statement, so I do not know what he said, but if I am correctly informed as to what he said, I think he said something that he did not intend at all.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Dakota.

The amendment was rejected.

The Clerk read as follows:

(d) In the case of the members of a partnership the proper part of each share of the net income which consists of earned income shall be determined under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary, and shall be separately shown in the return of the partnership, and shall be taxed to the member as provided in section 218.

Mr. BLACK of Texas. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: Page 27, line 22, strike out lines 22, 23, 24, and 25, and on page 28 strike out all of the language on page 28, and on page 29 strike out all of the language down to and including line 17, the language stricken out being all of section 209.

Mr. GREEN of Iowa. Mr. Chairman, I make the point of order that the amendment comes too late. We are reading by paragraphs, and part of the motion is to strike out the first paragraph.

The CHAIRMAN. Does the gentleman from Texas desire to be heard?

Mr. BLACK of Texas. Mr. Chairman, I do not know just what the ruling of the Chair in a case like this would be, but I followed the precedent of the gentleman from Arkansas [Mr. OLDFIELD], who waited until the previous paragraphs relating to capital gain and loss were finished by perfecting amendments. He then moved to strike out the whole section. I thought that was the logical thing to do. I realize that we consider these revenue bills by paragraphs, but inasmuch as we were dealing with the whole section, as I understood it, I thought the logical thing to do would be to wait until the section was perfected and then move to strike out the whole section. That is the only reason I did not attempt to offer my motion before that.

Mr. LONGWORTH. Mr. Chairman, in the case of the gentleman from Arkansas, the only reason why he was permitted to make such a motion was that he had been granted the right to do so by unanimous consent. The gentleman from Texas plainly violates the rules.

Mr. BLACK of Texas. Mr. Chairman, in view of the circumstances, I ask unanimous consent that my amendment be now considered.

The CHAIRMAN. The gentleman from Texas asks unanimous consent for the present consideration of his amendment. Is there objection?

Mr. GREEN of Iowa. Mr. Chairman, I am compelled to object.

The CHAIRMAN. Does the gentleman from Texas insist upon a ruling from the Chair?

Mr. BLACK of Texas. Mr. Chairman, I insist upon the amendment. It is up to the Chair to make the ruling.

The CHAIRMAN. The Chair is constrained to rule that under the practice as the Chair understands it, where a bill is being read by paragraphs and it is desired to strike out the section, the proper thing to do is to move to strike out the section in the first place or to wait until the first paragraph is read and then move to strike it out, with notice that a similar motion will be made to each succeeding paragraph as it is reached. In view of the matter, in which I am confirmed by consultation with the parliamentarian, the Chair is constrained to sustain the point of order.

Mr. CONNALLY of Texas rose.

The CHAIRMAN. For what purpose does the gentleman from Texas rise?

Mr. CONNALLY of Texas. To make a suggestion on the point of order.

The CHAIRMAN. The Chair has ruled upon it.

Mr. CONNALLY of Texas. I beg the Chair's pardon. I understood he stated he would consult the parliamentary clerk.

The CHAIRMAN. No; I have consulted him.

Mr. CONNALLY of Texas. If all the amendments had been offered at the same time, the perfecting amendments would have been voted on first, and the gentleman from Texas could not offer his amendment to strike out until all the other amendments were disposed of.

The CHAIRMAN. Under the parliamentary situation the Chair thinks the point of order should be sustained.

Mr. GREEN of Iowa. Mr. Chairman, the next section to be read is 212.

The CHAIRMAN. The gentleman is right. The Clerk will read.

The Clerk read as follows:

(a) The term "gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service (including in the case of the President of the United States, the judges of the Supreme and inferior courts of the United States, and all other officers and employees, whether elected or appointed, of the United States, Alaska, Hawaii, or any political subdivision thereof, or the District of Columbia, the compensation received as such), of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under subdivision (b) of section 212, any such amounts are to be properly accounted for as of a different period. Items of gross income shall be considered to be received in the taxable year in which they are unqualifiedly made subject to the demands of the taxpayer.

Mr. BLACK of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: Page 24, line 24, after the word "whatever" strike out the period and add the following

language: "Including interest received upon the obligations of States, Territories, political subdivisions thereof, or the District of Columbia: *Provided*, That there shall be excluded from the gross income in the case of any person owning obligations of States, Territories, political subdivisions thereof, or the District of Columbia, the interest of which is included in the gross income, the interest on the amount of such obligations, the principal of which does not in the aggregate exceed $5,000."

Mr. GREEN of Iowa. Mr. Chairman, this proposition has already been considered and voted down in a little different form. We debated it for a long time, and therefore I ask unanimous consent that all debate on this amendment close in five minutes, all the time being allowed to the mover of the motion.

Mr. FREAR. I shall object. Here is a matter involving $2,000,000 of securities, and you propose to stop it in five minutes.

Mr. GREEN of Iowa. How long do you want to argue it?

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that all debate on this amendment close in five minutes, all the time to be allotted to the mover of the motion. Is there objection?

Mr. LAGUARDIA. I object.

The CHAIRMAN. The gentleman from Texas [Mr. BLACK] is recognized.

Mr. BLACK of Texas. Mr. Chairman and gentlemen, it is true that the proposition which is contained in my amendment has been argued heretofore, but it is a very important one, and it ought to receive the earnest consideration of the House.

Now, if my amendment should be adopted there would be added to the gross income of a taxpayer all interest received upon the obligations of States, Territories, political subdivisions thereof, or the District of Columbia, except an exemption is granted to the interest upon an amount of such obligations the principal of which does not exceed in the aggregate $5,000. The reason why I have written that exception into the amendment is that I follow exactly the exemption now allowed to interest on $5,000 of bonds of the Government of the United States, and it is in the same language as the provisions of the revenue act of 1918 as it passed the House of Representatives. The Senate did not pass the provision, but nevertheless the House clearly expressed its will upon the subject. In that bill we undertook to tax the income from these securities, and it was supported by the present majority leader, Hon. NICHOLAS LONGWORTH, of Ohio, and it was supported by our honored colleague on the Committee on Ways and Means, Hon. HENRY T. RAINEY, of Illinois. The bill was in the charge of that gallant and able Democrat, Hon. Claude Kitchin, of North Carolina, and I have copied the proviso to my amendment exactly from the provision of the bill of 1918.

The only difference in the whole amendment is—I want to be frank, and will be frank, of course—the only difference is that the bill of 1918 did not seek to tax the interest on these securities which had been issued prior to the enactment of the bill. The tax levied would have applied only to securities issued after passage of the act.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BLACK of Texas. No. I regret I have only five minutes, and the gentleman from Iowa has been very technical this afternoon in regard to time.

Mr. GREEN of Iowa. Oh, no.

The CHAIRMAN. The gentleman from Texas declines to yield.

Mr. BLACK of Texas. The proposition that I make is this: The House, having voted by a majority vote in favor of taxing income from these securities in 1918, ought now to adopt my amendment and put the precise question up to the Supreme Court of the United States for a final decision.

There is no man in this House who has a more profound respect for the Supreme Court than I, and if that great court had ever passed upon this precise point and had ruled that Congress was without the power to levy this tax, then I would not again submit it to the House. I would recognize, of course, that the only way to cure the situation was by a constitutional amendment. But there is not a Member of this House who can fairly and justly argue that the precise question has ever been decided by the Supreme Court.

Now, in the debate in 1918, the gentleman from Illinois [Mr. RAINEY] had this to say, found on page 10374 of the CONGRESSIONAL RECORD:

Mr. Chairman, I have no hesitancy in submitting this question to the Supreme Court of the United States.

And then the gentleman from Ohio [Mr. LONGWORTH], who is now the majority leader of the House, made a speech opposing the amendment offered by the gentleman from Virginia, Governor MONTAGUE, who sought to strike out the provision from the bill. The present majority leader made a vigorous speech against the adoption of the amendment, in which he said:

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Virginia [Mr. MONTAGUE].

It seems to me that there is quite a distinct difference, a very sharp difference, between our right to tax the income of municipal bonds already outstanding and our right to tax those which shall be issued in the future. I myself have very little doubt that we have the power to put a tax on the income of bonds hereafter to be issued.

Thus spoke Mr. LONGWORTH on September 16, 1918. I do not agree with him that there is any distinction whatever in the power of Congress to tax the income from these bonds issued after the passage of the act over those issued before the passage of the act. The power of Congress in each case would be just the same. I do agree with him, however, that we do have the power to tax such income, and therefore I urge the adoption of my amendment.

The CHAIRMAN (Mr. SANDERS of Indiana). The time of the gentleman from Texas has expired.

Mr. GREEN of Iowa. Mr. Chairman, I move that all debate on this amendment close in 10 minutes.

The CHAIRMAN. The gentleman from Iowa moves that all debate on this amendment close in 10 minutes.

Mr. FREAR rose.

The CHAIRMAN. The Chair recognizes the chairman of the committee to make the motion.

Mr. FREAR. Will the Chair recognize me?

The CHAIRMAN. The gentleman from Iowa moves that all debate on this amendment close in 10 minutes.

Mr. GREEN of Iowa. Yes; in 10 minutes. It has been discussed over and over again.

Mr. FREAR. Mr. Chairman, I move an amendment—that it be made 20 minutes.

The CHAIRMAN. The gentleman from Wisconsin moves to amend the motion of the gentleman from Iowa and make it 20 minutes. The question is on agreeing to the amendment offered by the gentleman from Wisconsin.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. FREAR. A division, Mr. Chairman.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 90, noes 69.

So the amendment was agreed to.

The CHAIRMAN. The question recurs on the motion of the gentleman from Iowa as amended.

The motion of Mr. GREEN of Iowa as amended was agreed to.

Mr. FREAR. Mr. Chairman——

The CHAIRMAN. The gentleman from Wisconsin is recognized for five minutes.

Mr. FREAR. Mr. Chairman, I wish to assure the House that I do not care to delay its proceedings, but on a matter of this importance it is folly to cut off discussion in 5 minutes or 10 minutes, and that is the reason why I insisted upon the extension of the time for discussion. It is like the right of petition, and we insist upon it.

I do not intend to discuss what we have talked over from my viewpoint, because I think the House understands quite clearly that practically all of the argument made on either side thus far for the cutting down of the surtax on these very enormous incomes is based on the ground that if we do not do this the incomes will be placed in tax-free securities as one of the methods of tax escape. That is a good argument, and it is, to an extent, followed by the statement which I have inserted in the RECORD of the man who tried the only case that is claimed to be decisive but which was only obiter dicta, the case of Evans against Gore. He says this question of tax-free securities, as we all know, was never tried and never determined by the court. That case related solely to judges' salaries. In addition to that there is the brief of Judge Corwin, which is a remarkable brief and covers all the cases affecting the question of taxable securities. If, with all of these facts before us, we can not say to the Supreme Court, "Decide the question fairly," then I say frankly we are begging the question. If these incomes are being placed in tax-free securities—and we know they are—let us have the court decide the question and decide it squarely.

The gentleman from Texas [Mr. MANSFIELD] said to me yesterday, "When we sold our bonds in Texas we put that condition in them, and they knew they were to pay taxes." That being so, people understand generally that the sixteenth amendment to the Constitution meant what it said; that it gave power to tax incomes from whatever source derived. If

that was so, then they at that moment taxed all the incomes under laws enacted by Congress, and that being true, no one can complain to-day when buying any kind of a security, whether it be a sewerage security, a highway security, or whatever it may be. They can not complain, because they bought with full knowledge under the law.

We say, of course, we are not going to tax securities; we can not touch them, and we do not want to; we want to tax the income of the people who to-day are able to evade their just taxes, and those most violent in attacking these tax evaders are now helping them to escape.

My good friend from Texas [Mr. BLACK] has put into this bill a better proposition than I had, for he exempts from taxation $5,000 to every holder. It is right he should do that. I do not believe the Supreme Court will turn down this proposition when once fairly presented, but let us give the court a chance, especially, as I said the other day, when it involves $20,000,000,000 in securities which affords an avenue of escape from payment of taxes through tax-free securities.

Mr. OLIVER of New York rose.

The CHAIRMAN. For what purpose does the gentleman from New York rise? Is the gentleman in favor of the amendment or opposed to it?

Mr. OLIVER of New York. I am opposed to the amendment.

The CHAIRMAN. The gentleman from New York is recognized in opposition to the amendment.

Mr. OLIVER of New York. Mr. Chairman, I am against this amendment on the same principle that I was against the constitutional amendment recently defeated in the House. I have introduced a proposed constitutional amendment giving the Federal Government the power to lay and collect taxes on income derived from all Government securities. My amendment reads as follows:

SECTION. 1. Congress shall have power to lay and collect taxes on income derived from securities issued after the ratification of this article by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of the United States or any other State.

SEC. 2. Congress shall provide that moneys collected under said power from the income derived from securities issued by any State or subdivision thereof shall be returned to the State or subdivision which issued the securities and that all moneys collected from the income derived from securities issued by the Government of the United States shall be paid into the Treasury thereof.

Section 2 of the bill provides that the Federal Government shall give back to the States, cities, towns, and villages every dollar's worth of tax collected from the income of any State, city, town, or village bond, on the theory that by that method we would put every income, from every source whatever, under a Federal income tax law, but give back to the States, cities, towns, and counties, which must raise their interest rate because of a taxation policy, every single dollar the Federal Government collects.

The vice of the bill proposed by the committee, on which we voted some time ago, was that it proposed, by a process of retaliation, to bring about justice between the States and the Federal Government. But retaliation never brought justice and can never bring anything but strife. The committee bill read as follows:

SECTION 1. The United States shall have power to lay and collect taxes on income derived from securities issued after the ratification of this article by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of the United States or any other State.

SEC. 2. Each State shall have power to lay and collect taxes on income derived by its residents from securities issued after the ratification of this article by or under the authority of the United States, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of such State.

The fallacy of that plan is that in endeavoring to put all citizens on an equality before the income tax laws it created the greater evil of putting State and local government at the mercy of the Federal Government. The power given to the State governments to retaliate on the Federal Government would never be used in time of war, and I do not think, since but a few States have income tax laws, that it is a power equal to that conferred on the Federal Government. Now, the proposition is contained in the amendment offered by the gentleman from Texas [Mr. BLACK] to permit the Federal Government to keep all the tax it collects, even though local government is made more expensive by the power to tax. He proposes to tax the income from all State and city bonds and give the whole thing to the Federal Government. I do not see why States, cities, and towns should pay a subsidy to the Federal Government. The report of the Committee on Ways and Means advocating their constitutional amendment said that they proposed to tax State and city bonds because the States, cities, towns, and counties are living on a subsidy from the Federal Government due to tax exemption of their securities, and they proposed to make the States pay a subsidy to the Federal Government for all time in order to cure that evil. I am against that, and I am going to offer this proposal at the proper time to the platform committee of the Democratic Party as the only fair method of solving the tax-exempt income evil; in other words, I do not believe there is any other method except by making the Federal Government a collection agency for the States.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. OLIVER of New York. Yes.

Mr. LAGUARDIA. Would not the gentleman's amendment destroy the marketability of municipal bonds and also increase the rate of interest?

Mr. OLIVER of New York. No; but I perfectly agree with the gentleman that there is going to be some evil in it, but not as much as he suggests, but whatever evil there is will be corrected in the greatest degree by returning to the States, cities, and towns every dollar of tax collected. The Federal Government would not be collecting all the taxes and spending them for Federal purposes when the people of the States and cities are themselves financing their investments at a higher rate because of the Federal tax. I voted against the committee bill largely for the reason that the committee bill did a gross injustice to local government.

Mr. LAGUARDIA. Does not the gentleman believe that with the development of public utilities by municipalities which must take place in the next 10 or 15 years to destroy these exploiting public-service corporations, it would be better to leave it as it is?

Mr. OLIVER of New York. It might be, but I suggest this amendment because of the great vote, almost a two-thirds vote for the committee bill in the House recently. If they are going to carry through a tax-exempt amendment—and all indications show that some day they will succeed—we have got to carry through a sensible one that does the minimum of harm to the State and city governments.

The object to be obtained is to bring the income of every citizen under one uniform tax law, the Federal income tax law. There is no need to change the relation between State and Federal Government in order to accomplish this simple object. The object can be secured as I have suggested. The evil it will do to State and local government is very small. Whatever tax is collected they will receive as compensation for the rise in interest rate on their bonds. No system is perfect. No system is without evil, but the plan I have suggested can be adopted with little or no financial loss to any government and with no gain to either State or Federal Government at the expense of each other. State sovereignty will be preserved under my plan and the Federal Government will receive the revenue collected from a tax on the securities which the Federal Government issues. Thus, no citizen escapes the payment of his tax, no State or local government is made subject to the Federal Government. My plan gives the Federal Government the power to tax without the power to destroy.

Mr. LITTLE. Mr. Chairman, I move to strike out the last word. [Applause.]

The CHAIRMAN. The gentleman from Kansas is recognized.

Mr. LITTLE. Mr. Chairman and gentlemen, I do not know of any more desperate situation in this country than the ability of men of great fortunes to escape paying taxes. I am sorry to hear the distinguished Chairman object to further consideration of the question. I do not know of anything we have in our minds that more needs discussion. Every subject that has been before us this week has been discussed over and over many times. I hope you will keep on discussing this until somebody evolves a method of meeting it, and that it will not be stopped by any point of order. I heard somebody remark a moment ago that the discussions did not bring anything new. I ran across some facts—and I think a few facts will not hurt this discussion, either—about the English method of collecting taxes. I find that the Guinness brewery in 1921 made $76,000,000 in profits. The Government collected $60,000,000 and more of excise and license duties and $7,000,000 of income and excess profits taxes, a total tax of $67,794,000. Those people had just $7,583,000 left out of a total of $76,374,000.

Mr. LAGUARDIA. What year?

Mr. LITTLE. 1921. This was a total of $67,000,000 collected out of $76,000,000.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. LITTLE. Excuse me, I can not yield now. That left $7,000,000. The tax paid out in that case was 90 per cent. The people retained about 10 per cent of their income. What are these people crying about that pay the taxes we have heard of in the last week. We do not know how to collect taxes, and I hope the discussion will go on until we have a chance to find out a way.

You can now begin to pay your income taxes or get ready to pay inheritance taxes when you are dead. Will you pay now or leave it to your children to pay? This question has got to be solved, gentlemen, some way or other, and if you men can not pay your taxes alive, you can pay them when you are dead.

We now levy a 50 per cent inheritance tax, 25 per cent here and 25 per cent in some of the States. They can take half you have now in that way. Why do you not prefer to pay your income tax now?

I should think any ordinary citizen, any brilliant genius of finance, would rather pay a good, stiff income tax each year than to pay an enormous inheritance tax after he is dead.

On page 2442 of the CONGRESSIONAL DAILY RECORD of February 14, 1924, the gentleman from New York said that under the Mellon plan the total tax reduction would be $233,000,000; that of this tax reduction only 3 per cent would go to incomes of over $100,000. Three per cent of $233,000,000 is $7,000,000 in round numbers. The gentleman from New York thus indicates that those paying taxes on incomes of over $100,000 will gain $7,000,000 a year if the Mellon plan goes into effect. If it goes into effect, their surtax is reduced by 50 per cent. If $7,000,000 is 50 per cent of the surtax they pay, the total surtax they pay is $14,000,000 in round numbers, but their surtax is 50 per cent of their total income, and therefore their total income is about $28,000,000 a year. If we estimate that they have been making a 10 per cent income on the capital they have invested, that capital would be approximately $280,000,000. That is a fair and reasonable estimate. They wish to be protected hereafter so that they will only pay a $7,000,000 surtax on a probable investment of $280,000,000 here in America. Similar people in England pay $67,000,000 in taxes on a $76,000,000 income. They pay 90 per cent in England as compared with 25 per cent in this country if this bill had become a law as reported by the committee.

If we had applied the English law to those $28,000,000 admitted taxable incomes, we would have collected $25,200,000, instead of only $7,000,000. It does seem to be much harder to squeeze the American eagle than the English pound sterling, so the Englishmen borrow our money to take care of their soldiers and big money says, "The war is over. Discontinue the war taxes." Yes; the war is over for the present, but the war debts are not. "The tumult and the shouting dies, the captains and the kings depart," but the $20,000,000,000 debt is still unpaid and can only be paid by the taxes of this country. An immense portion of these great fortunes was made during the Great War while the boys were at the front. A too great proportion was made by dishonest profiteers who, equally dishonest in peace or war, now seek to avoid paying their just debt to the Government. The crippled soldiers are still discharging their war debts.

The gentleman from Massachusetts told us the other day that you can not tax anything that can run away. The cripples can not run away, and the mortgage the war put on them is still a lien. There were many great incomes present after the war, and the principal reason they do not appear on the tax records is because their owners are perjured scoundrels. If we place them in the penitentiary, they will not run away and we will collect those taxes. There is no man in this House who believes that those great fortunes are all in tax-exempt securities. Those men have become outlaws in this land and long since ceased to be entitled to any consideration from the tax collector and the sheriff.

The gentleman suggested that I advocated the doctrine of force. Why, certainly. I go further. I advocate the doctrine of confinement until the goods are delivered in the Treasury. Gentlemen, let us apply the ordinary principles of common sense and justice to dishonest men who seek to evade the law and take advantage of its technicalities, which give no aid for the soldiers' families. We must teach these men a higher code of honor. There is no better protection for their wealth and for this great Nation than the demonstration by the Republic that it is determined its soldiers shall have just and generous consideration. This Congress should definitely determine that the soldiers of this country stand higher in its esteem than the money changers.

The lessons of the last five years, the lessons of the war, should teach every man that the world has changed tremendously as a result of this Great War. People are no longer standing saddled and bridled to be ridden by wealth and power. Hereafter great majorities, not great wealth, will rule. See that you learn that fact before it is too late, before 80 per cent inheritance taxes have been utilized to pay off the war debts of this country. My views on this subject have not changed since May 29, 1917, when I made a very brief speech here on the tax bill then under discussion, which I shall probably republish in the same pamphlet in which this little talk will appear.

Patriotism, honor, and valor are the bulwark of this Nation, not money bags. The world is almost at peace, but in the silent watches of the night when the rains are on the roofs you can still hear in the distance the beat of muffled drums to which march with measured tread those who are dead already and those who are yet to die for this great Republic.

Mr. GREEN of Iowa and Mr. CELLER rose.

The CHAIRMAN. The gentleman from Iowa, chairman of the committee, is recognized.

Mr. GREEN of Iowa. Mr. Chairman, this is a subject that a few days ago we devoted several hours to and by a very decided majority voted down. This is submitted in just a little different form. The gentleman from Texas talked about my being technical. I have been, as I have always been with all Members of the House, more than fair, and have given them this time when they are not entitled to anything here, because it has already been submitted.

Now, gentlemen, what is this proposition? It is simply a proposition in defiance of the law of the United States as it stands to-day, in defiance of the faith and credit extended by the several States, to proceed to put a tax not only upon all State and municipal securities that are to be issued in the future but also upon all those that have been heretofore issued.

Mr. CONNALLY of Texas. Will the gentleman yield? I am with him on this proposition.

Mr. GREEN of Iowa. Yes.

Mr. CONNALLY of Texas. How much does the gentleman from Iowa calculate we would raise the interest rate on these securities issued in the future if we adopted this amendment?

Mr. GREEN of Iowa. Let me tell the gentleman just what effect it would have. It would raise the rate, I do not know just how much, but a certain percentage on all the issues for the next two years, until the case got before the Supreme Court and had been decided against them. Then it would bring in nothing to the Government, and all the money collected would have to be refunded, and the only result would be that the States and municipalities who had issued the securities would have to pay, in the meantime, an additional rate. If any of you gentlemen on that side want to vote for that proposition, you can do so.

Mr. BLACK of Texas. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. BLACK of Texas. Did not the gentleman oppose the amendment of the gentleman from Virginia [Mr. MONTAGUE] to strike it out in 1918?

Mr. GREEN of Iowa. To strike what out in 1918?

Mr. BLACK of Texas. To strike out a provision taxing the interest from State and municipal securities. Was the gentleman not one of those who opposed the amendment?

Mr. GREEN of Iowa. Let me ask the gentleman a question. The gentleman stated awhile ago that this was in the 1918 law. The gentleman had better read the 1918 law, because there is an express provision in that law exempting them.

Mr. BLACK of Texas. I said it was in the 1918 bill as it passed the House, but it did not pass the Senate.

Mr. GREEN of Iowa. Of course, it did not pass the Senate.

Mr. BLACK of Texas. It passed the House and the gentleman voted for it. [Applause.]

Mr. GREEN of Iowa. But wait a moment. What was the situation at that time? Had the case of Evans against Gore been decided by the Supreme Court at that time? The gentleman knows it had not. The case that covers this matter had not been decided at that time.

Mr. FREAR. Will the gentleman yield? The gentleman who tried that case in the Supreme Court says it did not decide it and that it was obiter dicta and had no relation to it.

Mr. GREEN of Iowa. The gentleman from Wisconsin has made that statement so many times that I suppose he believes it.

Mr. FREAR. That is the reason I am citing it to the gentleman.

Mr. GREEN of Iowa. The gentleman has cited as his authority the man who tried that case and lost it when he ought to have won it. If that suits him as an authority, very well.

Mr. FREAR. It was on a different principle involved, entirely.

Mr. CELLER. Mr. Chairman——

The CHAIRMAN. There is one minute remaining and the gentleman from New York is recognized for one minute.

Mr. CELLER. Mr. Chairman and gentlemen of the committee, I do, indeed, admire the enthusiasm and persistence of the gentleman from Wisconsin [Mr. FREAR] and the gentleman from Texas [Mr. BLACK], but I am afraid that enthusiasm and that persistence is entirely misguided. We would, indeed, stultify ourselves if we would adopt this amendment, the principle of which was denounced by the Supreme Court of the United States, and it is idle for us to keep arguing and talking about this question over and over again. We get nowhere whatsoever. I say to the gentleman from Wisconsin that it was not obiter dicta with reference to the decision of Evans against Gore. That case squarely decided the proposition that within the realm of the sixteenth amendment you could not tax, and this body had no power to tax, any new or excepted subjects, subjects which the Congress had not power to tax before that decision, and just as Congress could not cause a diminution of the salary of a Federal judge, Congress could not tax the instrumentalities of a State, such as the income from tax-exempt securities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BLACK].

The question was taken; and on a division (demanded by Mr. BLACK) there were—ayes, 47, noes 115.

So the amendment was rejected.

Mr. NEWTON of Minnesota. Mr. Chairman, I move to strike out the last word. Section 213 provides for taxing the salary of the President of the United States and various Federal judges. No provision is made that it is to apply only to those who have taken office following the enactment of the law making their income subject to the tax.

Mr. GREEN of Iowa. I will say that it is the same as the present law, and of course it dates back to the enactment of the present law and applies to those appointed since.

Mr. NEWTON of Minnesota. So it is necessary if the judge was appointed before February 24, 1919, when the provision was first enacted, for him to make an express claim for exemption on the ground that the tax constitutes a diminution of his salary.

Mr. GREEN of Iowa. Yes.

Mr. NEWTON of Minnesota. I want to make another observation in reference to the case of Evans *v.* Gore (253 U. S.). It is established by Evans against Gore in the majority opinion that the taxing of the salary of a Federal judge who was in office when the law is passed is a diminution of that salary, and therefore in violation of section 1 of Article III of the Constitution. There can be no question about that. Now, then, section 1 of Article II of the Constitution of the United States provides that the salary of the President of the United States shall neither be diminished nor increased during his term of office. If the taxing of the income of the President is a diminution of his salary, then it would appear to follow that a reduction in the tax during his term is an increase of the salary in accordance with the majority opinion of the Supreme Court in Evans against Gore. I merely call it to the attention of the House. The dissenting opinion of Judge Holmes and Judge Brandeis seems to me to be more logical and better law and more in keeping with the situation. If anyone should raise the question after this reduction becomes law, it seems to me the court would have difficulty in not holding that the reduction was in a constitutional sense an increase in the salary of the President of the United States during the period for which he was elected.

Mr. GREEN of Iowa. I do not agree with the gentleman, and if I did it would not make any difference as to the provisions in this paragraph.

Mr. NEWTON of Minnesota. My purpose was to make an additional comment on the decision in Evans against Gore with which, as the House knows, I have not been in accord.

Mr. LAGUARDIA. Mr. Chairman, I move to strike out the last two words. With reference to taxing the salary of United States judges, I want to say that it is about time that we gave the Federal judges a decent living salary instead of taxing and taking away a part of the measly salary that they get now. In New York City we pay the judges of the supreme court $17,500.

Mr. CELLER. And they are asking for $25,000.

Mr. LAGUARDIA. Yes; and they are worth it. You get an honest, independent judge and he is worth $25,000. I hope to see the time that the House will give very serious consideration to giving the Federal judges a reasonable and sufficient salary. Pay the Federal judges a decent salary and we may get the right kind of an independent man to take the job.

Mr. KNUTSON. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. KNUTSON. Is the gentleman trying to build up a tax-exempt class in this country?

Mr. LAGUARDIA. Oh, no; the gentleman knows I would not advocate that.

The Clerk read as follows:

(b) The term "gross income" does not include the following items, which shall be exempt from taxation under this title:

(1) The proceeds of life insurance policies paid upon the death of the insured;

(2) The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract;

(3) The value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included in gross income);

(4) Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (B) securities issued under the provisions of the Federal farm loan act, or under the provisions of such act as amended; or (C) the obligations of the United States or its possessions. Every person owning any of the obligations or securities enumerated in clause (A), (B), or (C) shall, in the return required by this title, submit a statement showing the number and amount of such obligations and securities owned by him and the income received therefrom, in such form and with such information as the commissioner may require. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit), the interest shall be exempt only if and to the extent provided in the respective acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt to the taxpayer from income taxes;

(5) The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States;

(6) Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness;

(7) Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the Government of any possession of the United States, or any political subdivision thereof.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, the tax upon the income from the operation of such public utility shall be collected and paid in the manner and at the rates prescribed in this title; but there shall be refunded to such State, Territory, or political subdivision thereof, or the District of Columbia, under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary, a part of such tax equal to the amount by which the share of the income from the operation of such public utility accruing to such State, Territory, or political subdivision thereof, or the District of Columbia, was reduced by the imposition of such tax;

(8) The income of a nonresident alien or foreign corporation which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States;

(9) Amounts received as compensation, family allotments and allowances under the provisions of the war risk insurance and the vocational rehabilitation acts, or as pensions from the United States for service of the beneficiary or another in the military or naval forces of the United States in time of war;

(10) The amount received by an individual before January 1, 1927, as dividends or interest from domestic building and loan associations, substantially all the business of which is confined to making loans to members, but the amount excluded from gross income under this paragraph in any taxable year shall not exceed $300;

(11) The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(12) The receipts of shipowners' mutual protection and indemnity associations, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax upon their net income from interest, dividends, and rents;

(13) In the case of an individual, amounts distributed as dividends to or for his benefit by a corporation organized under the China trade act, 1922, if, at the time of such distribution, he is a citizen of China, resident therein, and the equitable right to the income of the shares of stock of the corporation is in good faith vested in him.

Mr. McKEOWN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 38, line 15, after the semicolon, insert a new section as follows: 25 per centum of all incomes derived from cheap sanitary dwellings rented to families having more than two children under 16 years of age: *Provided*, That two-thirds of the apartments in such dwelling must be used for housing families having children.

Mr. McKEOWN. Mr. Chairman and gentlemen of the committee, this amendment may seem to you rather strange. I have no place in my district that it applies to, and I have no constituent that would be benefited by it. I want to call the attention of Congress to the great necessity now existing in the United States for sanitary cheap dwellings for workmen with families. One of the great troubles is that a man with a family can not find a place to live, either within reach of his means or he is barred because he has children. Now there is nothing socialistic in this proposition, because for years it has been the law in other countries that the people who have money to invest have been encouraged by tax exemption to invest in buildings of this character. It is needed in the great cities in this country, and the language used, "sanitary cheap dwellings," will cover apartments. I do not want any man to secure 25 per cent allowance on an income because he could rent one apartment in his apartment house, but he must let at least two-thirds of the tenement to families having more than two children. Perhaps you think it is rather novel, but you have not given attention to it. I say to you now that the great need in this country to-day is the housing of people of small means as well as those of medium. One-third of every dollar paid out in Washington by the Government goes to the landlords.

If you want to know how much money is spent in Washington for rents, just take the amount of money that is paid in salaries in this city, and you will find that one-third of it goes to the landlords. Rents throughout the country have gone up 80 per cent since 1917. This matter is no light matter. We are here to legislate for the benefit of all of the people of the country, and I say to you that you let the people of the country, who are unable to protect themselves, live in tenement houses from which come boys growing into manhood, who have no chance in life, and conditions that grow some citizens who may cause a great deal of trouble in this country. They have no chance; they are growing up under environments which are likely to make them dangerous citizens. Yet we sit here in the Congress and pay no attention to it. You may vote down this amendment promptly, because it has not had the consideration of the committee. Yet the language of the amendment is drawn from the law as it is in effect in other countries where it has proven of great benefit. I am asking that you make this exemption, not that I know of a single instance where it will apply, but as an inducement to philanthropic men, to men of great wealth, to construct these buildings so that these people can have a place in which to live.

Mr. BOYLAN. Mr. Chairman, will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. BOYLAN. I am in thorough sympathy with the amendment proposed by the gentleman, but I think there should be a more complete definition or restriction. For instance, the gentleman should specify what he means by "sanitary" and what he means by "cheap." I think he should put a limit upon the total value of the building. In the city of New York we have exempted buildings to a certain extent. I think there would be a limitation placed upon the value of each building.

Mr. McKEOWN. In reply to that, I might say that the gentleman now touches upon one thing that is a great wrong in respect to our laws to-day. Instead of writing down plain, everyday language so that everyday American citizens may understand what we mean, so the courts can understand what we mean, we undertake to enter the realm of definitions.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. McKEOWN. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. McKEOWN. Every man in this House knows and every citizen in this country knows what a cheap house is, and what a sanitary house is. We write too many statutes with too many definitions in them, until it is so that nobody can tell, layman or court, what we mean by our language. If we would simplify the language in which we write our laws we will get along very much better.

Mr. BOYLAN. Mr. Chairman, will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. BOYLAN. I am in thorough sympathy with the amendment of the gentleman, but I would like to see it couched in such language that it will be productive of some good.

Mr. McKEOWN. This is the language that is used in other statutes. It is also similar to the language used in the French act, which went into effect many years ago. Of course I take the gentleman's suggestion seriously. If one wanted to go to work and draw a bill embodying this idea, one could very well do so, but this is a simple exemption of 25 per cent on the incomes of men who will invest their money in sanitary, cheap houses for persons with children. It is a shame that in the city of Washington one can not get a place for himself and family for no other reason than that there are children in the family. Get out and try to get an apartment, and the first question that will be asked will be how many children you have. If you have any, you are barred. That ought not to be permitted in Washington or in any other place. [Applause.]

Mr. GREEN of Iowa. Mr. Chairman, I sympathize with the purpose of my friend from Oklahoma, but I think the House will take him at his word and vote this amendment down very quickly and promptly. The fact of the matter is that, outside of the merits of the question, the amendment offered by the gentleman is absolutely impossible of administration. There is no way of determining whether it be a cheap house or a sanitary house. If there was, it would draw an unfair comparison between that and more expensive dwellings.

Mr. CHINDBLOM. That would not be any harder than to determine the capital investment of a farmer or a small merchant.

Mr. GREEN of Iowa. But that question has been passed over.

Mr. BOYLAN rose.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that all debate upon this amendment and all amendments thereto close in five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BOYLAN. Mr. Chairman, I think this is a really serious amendment, and that it should not be shouted down by merely saying that it is not serious. What is closer to us than to provide for housing conditions? First we must have food and clothing, and necessarily that must be followed by proper housing conditions. In the city of New York we have endeavored to solve this problem by providing an exemption in respect to the cost of buildings to a certain amount in order that additional facilities might be provided and in order that encouragement might be given to building. The greatest asset to the country to-day is the children of the country. [Applause.] Why should we not cater to anything or any means to bring about better living conditions for the children of these United States? Why not have cheap sanitary dwellings, providing that families with children should have the preference? What greater incentive could be given to capital than an exemption of this kind? This is a serious proposition, and I believe that the amendment should prevail. It will show that we are in favor of helping the main bulwark and asset of our civilization in this country, and it would tend to create a better citizenship as these children grow up. The amendment is humane, and to my mind it is germane to the bill now under discussion. Nothing better could be done than to adopt this splendid, humanitarian amendment proposed by the gentleman from Oklahoma. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken; and on a division (demanded by Mr. McKeown) there were—ayes 76, noes 84.

The CHAIRMAN. The Clerk will read.

Mr. McKEOWN. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman is within his rights. Does the gentleman ask for tellers?

Mr. McKEOWN. Yes.

The CHAIRMAN. Tellers are demanded.

Tellers were ordered, and the Chair appointed Mr. McKEOWN and Mr. GREEN of Iowa to act as tellers.

The committee again divided; and the tellers reported—ayes 71, noes 108.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEDUCTIONS ALLOWED INDIVIDUALS.

SEC. 214. (a) In computing net income there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

Mr. JACOBSTEIN. Mr. Chairman, when shall I have the right to offer an amendment?

The CHAIRMAN. The gentleman will have the right to offer an amendment to that paragraph at the end of the reading of the paragraph, namely, at the end of the section numbered as (a) on page 43.

Mr. JACOBSTEIN. I can offer it at that time as if it were offered after the paragraph?

The CHAIRMAN. Yes; that is correct. The Clerk will proceed with the reading.

The Clerk read as follows:

(2) All interest paid or accrued within the taxable year on indebtedness;

(3) Taxes paid or accrued within the taxable year, except (A) income, war-profits, and excess-profits taxes imposed by the authority of the United States, (B) so much of the income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States as is allowed as a credit under section 222, (C) taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and (D) taxes imposed upon the taxpayer upon his interest as shareholder of a corporation which are paid by the corporation without reimbursement from the taxpayer. For the purpose of this paragraph, estate, inheritance, legacy, and succession taxes accrue on the due date thereof, except as otherwise provided by the law of the jurisdiction imposing such taxes;

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business;

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but in the case of a nonresident alien individual only if the profit, if such transaction had resulted in a profit, would be taxable under this title. No deduction shall be allowed under this paragraph for any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within 30 days before or after the date of such sale or other disposition the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property, and the property so acquired is held by the taxpayer for any period after such sale or other disposition. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed;

(6) Losses sustained during the taxable year of property not connected with the trade or business (but in the case of a nonresident alien individual only property within the United States) if arising from fires, storms, shipwreck, or other casualty, or from theft, and if not compensated for by insurance or otherwise. The basis for determining the amount of the deduction under this paragraph, or paragraph (4) or (5), shall be the same as is provided in section 204 for determining the gain or loss from the sale or other disposition of property.

(7) Debts ascertained to be worthless and charged off within the taxable year (or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts); and when satisfied that a debt is recoverable only in part the commissioner may allow such debt to be charged off in part.

(8) A reasonable allowance for the exhaustion, wear, and tear of property used in trade or business, including a reasonable allowance for obsolescence.

(9) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary. In the case of leases the deduction allowed by this paragraph shall be equitably apportioned between the lessor and lessee.

(10) Contributions or gifts made within the taxable year to or for the use of: (A) The United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes; (B) any corporation, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual; (C) the special fund for vocational rehabilitation authorized by section 7 of the vocational rehabilitation act; or (D) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual, to an amount which in all the above cases combined does not exceed 15 per cent of the taxpayer's net income as computed without the benefit of this paragraph. In case of a nonresident alien individual this deduction shall be allowed only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations created in the United States, or to such vocational rehabilitation fund. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner with the approval of the Secretary.

Mr. JACOBSTEIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JACOBSTEIN: Page 39, line 24, after the semicolon following the word "equity" insert "all necessary expenses actually paid during the taxable year to physicians, nurses, hospitals for medical or surgical treatment, attendance, or service to the taxpayer or the members of his immediate family."

Mr. JACOBSTEIN. Mr. Chairman, the purpose of this amendment is to enable people to deduct from their individual income tax some of the expense incurred in maintaining health. You have heard a section read in which business men and manufacturers are entitled to deduct from their income expenses incurred in maintenance, depreciation, repair, and so forth, of machinery. Is it not more than fair that individuals be permitted to deduct from their income the sums of money spent in maintaining health?

To cover this item, the amendment reads, on page 39: "That all necessary expenses actually paid to physicians, nurses, hospitals, for medical or surgical treatment, attendance or service to the taxpayer or to members of his immediate family" shall be deducted. In a word, if I have to spend for myself or for my wife or for my children sums of money to maintain my health or their health, I believe I am entitled to a deduction. That is absolutely a logical inference from our whole income-tax procedure. You allow a business man a deduction when he spends money to repair a machine. What is more important than to keep the human machine in fit condition? [Applause.]

It seems to me that on the very face of it the amendment which I have offered has such merit that it ought to be passed without great debate. I think nothing further need be said on it. So far as I am concerned, it seems to me like a very simple, straight proposition, easy to administer, if that question is in your mind. It simply means you would have to record on your return the amount of money you have paid to your physician or to the hospital or to the nurse. Those things are items just as your charitable contributions are items on your return.

Mr. HUDDLESTON. Mr. Chairman, will the gentleman yield?

Mr. JACOBSTEIN. Yes.

Mr. HUDDLESTON. At the present time we allow deductions to be made on account of fire, tornadoes, and other destruction of property. Is there any reason why we should not allow allowance for a fire that should injure a man personally and allow for his expenses incurred thereby, impairing his earning capacity?

Mr. JACOBSTEIN. Answering the gentleman's question, of course there is no reason for making that distinction. Unfortunately our laws have been framed, so to speak, from the viewpoint of property as against that of human life, without giving due consideration to the human aspects of the situation.

Mr. STENGLE. Mr. Chairman, will the gentleman yield?

Mr. JACOBSTEIN. Certainly.

Mr. STENGLE. Does your amendment include, under the title of physicians, an osteopath or a chiropractor?

Mr. JACOBSTEIN. Any service rendered by any professional person to maintain health. The word "physician," I think, is generic enough, general enough, to cover all professional services intended to maintain health and which actually do maintain it. [Applause.]

When we gentlemen go to pay our Federal income tax on March 15 we will deduct from our gross income, under the law, the following items of expense:

Repairing of machines (in factories).
Repairing a house.
Repairing a barn.
Depreciation on our factory machinery.
Loss due to bad debts.
Loss due to bad investments.
Loss by theft.
Loss by fire, storm, tornado, shipwreck.
Contributions to charitable organizations.
Contributions to religious organizations.
Contributions to educational institutions.
Necessary expenses in carrying on a business or trade.

These are regarded as reasonable deductions, the theory being that the individual who has to pay out money in any of these ways does not derive any enjoyment from the expenditure. These are justifiable deductions, because the theory of the income tax is that the tax is on net income and not on gross income.

This being so, I maintain that we ought to be permitted to deduct from our gross income money spent to maintain health. If an employer is entitled to a deduction when he spends money for the upkeep of a machine, why am I not entitled to a deduction for the upkeep of my bodily health and the health of my wife and children?

The injustice of the present law was brought home to me recently by a letter which I received from one of my constituents, Mr. Otto R. Rohr, president of the Stecher Lithographic Co., of Rochester, N. Y., which I take the liberty of inserting herewith:

I note from our local papers that you have been in receipt of considerable correspondence relative to Secretary Mellon's suggestion in connection with a revision and reduction of the income tax.

I will not burden you with my thoughts in the matter other than to say that the members of our organization are in entire accord with Secretary Mellon's suggestion, with which we know that you to quite some extent agree.

There is, however, one phase of the income tax regarding which one hears considerable comment when the matter is discussed, particularly amongst working people, that has not been touched upon in the discussions relative to the income tax which appear in the papers, and that is that our income-tax regulations of the past have made no provision for a deduction from income for the amount which one may be compelled to pay following the misfortune of serious accident or illness.

As an example I might cite the instance of an employee here whose wages are about on an average with those of other employees.

He had illness in the family, which involved hospital, doctor's, and nurses' bills in excess of $500, and he had to pay the same income tax that his more fortunate associates paid.

The law as it now exists does not give him the benefit of deducting from his income tax owing to the misfortunes which he had to go through.

It is really a case of having it rubbed in. It is bad enough to have the misfortune without having to pay a tax on the money which he earns in order to honorably take care of his responsibilities.

I am bringing this phase of the matter to your attention with the hope that you may see your way clear to endeavor to do something to relieve the situation that I have indicated above.

What can be more reasonable than to permit a deduction for an item of expense which has for its purpose the keeping in efficient condition the human body? The health of the individual is essential for productive efficiency in industry.

Our Government ought by every means to encourage and not penalize expenditures for health purposes. It is for the purpose of incorporating this reasonable and obviously fair proposition into the law that I am offering an amendment, which reads as follows:

Deduction shall be permitted for—

"all necessary expenses actually paid during the taxable year to *physicians, nurses, hospitals,* for *medical* or *surgical treatment,* attendance or service, to the taxpayer or the members of his immediate family."

Certainly this amendment is as reasonable as subdivision 8 of this section of the law, which reads as follows:

Deductions allowed individuals:

"(8) A reasonable allowance for the exhaustion, wear, and tear of property used in trade or business, including a reasonable allowance for obsolescence."

And it is certainly as reasonable as the ninth subdivision, which reads as follows:

In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary. In the case of leases the deduction allowed by this paragraph shall be equitably apportioned between the lessor and the lessee.

The passage of my amendment would lift the human body just up to the plane of a mere machine, of an oil well, a gas well, or a coal mine.

If misfortune through accident, shipwreck, storm, or fire causes loss, that loss is permitted as a deduction, but when through an act of God misfortune strikes down the human body and the individual seeks to rehabilitate that body, we do not permit such expense to be deducted. I maintain that this is as unreasonable as it is illogical.

Why it should be necessary to wipe out such inconsistencies in the law is hard to explain. When laws are made from the viewpoint of human rights and not merely from that of property rights, such glaring inequalities will not appear.

There can be no serious objection made to the proposed amendment on the ground of administration. Health expense items can be entered on our returns just as easily and just as honestly as our charitable, philanthropic, and educational contributions. I hope, therefore, that you will see this question as I see it and vote for the amendment I have proposed. Health is our greatest national asset.

That this suggestion of mine has met with popular approval is indicated by the number of letters I have received expressing sympathy with it. Public sentiment was probably crystallized and expressed in an editorial which appeared in the Rochester Journal and Post Express of January 26, which I am here reprinting:

THE HUMAN POINT OF VIEW—TIMELY CALLING OF ATTENTION TO IT BY CONGRESSMAN JACOBSTEIN.

Schools and hospitals are exempt from taxation, because education and health are deemed of prime public importance.

The proposal of Representative JACOBSTEIN, of the Rochester district, to the House Ways and Means Committee that exemption from income taxation be given for money individually spent for medical and hospital service and for the schooling of children is in line with this.

A business man, he points out, in arriving at his profits as a basis for taxation, is allowed to subtract the cost of upkeep of his plant, including the repair of machinery.

The worker's plant is his body and his mind. Is not the cost of their upkeep equally entitled to exemption?

Raising of this new point is timely. It illustrates the value of having in Congress men trained to look to the protection of human as well as mere property values.

Mr. McSWAIN. Mr. Chairman, I have a substitute to offer on the same line.

The CHAIRMAN. The gentleman will be recognized by the Chair.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes. Of course, I want to use up that time myself.

Mr. CELLER. Mr. Chairman, I want to speak on it.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that all debate on this amendment close in 10 minutes. Is there objection?

Mr. CELLER. Reserving the right to object, Mr. Chairman, if the gentleman will make it 15 minutes and let me have 5 minutes I shall not object.

Mr. GREEN of Iowa. We are fast turning this discussion into a joke. I move, Mr. Chairman, that all debate on this amendment close in 10 minutes.

Mr. McSWAIN. Mr. Chairman, I ask that it be made 20 minutes.

The CHAIRMAN. The gentleman from Iowa moves that the debate on this amendment close in 10 minutes. The question is on agreeing to that motion.

Mr. McSWAIN. I offer an amendment, Mr. Chairman.

Mr. SANDERS of Indiana. Mr. Chairman, the gentleman from South Carolina is authorized to offer an amendment under the rules.

The CHAIRMAN. The Chair has stated that the gentleman will be recognized for that purpose.

Mr. SANDERS of Indiana. The gentleman from Iowa has offered a motion to limit debate to a certain time. My recollection of the uniform practice is that when an amendment is proposed the Chair shall put the vote first on the amendment to the amendment. The amendment of the gentleman from South Carolina is offered, as I understand it, to the motion of the gentleman from Iowa. The gentleman's motion is not debatable, but amendable.

The CHAIRMAN. The gentleman from South Carolina [Mr. MCSWAIN] moves as an amendment to the motion made by the gentleman from Iowa [Mr. GREEN] that the time be 20 minutes instead of 10 minutes.

The question was taken, and the amendment was rejected.

Mr. MCSWAIN. Mr. Chairman, I asked for recognition because I have offered a substitute to the amendment offered by the gentleman from New York, and that substitute is now on the desk of the Reading Clerk.

The CHAIRMAN. The gentleman will be recognized when that times comes. The question now recurs on the motion made by the gentleman from Iowa.

The motion was agreed to.

The CHAIRMAN. The gentleman from South Carolina [Mr. MCSWAIN] offers a substitute for the amendment offered by the gentleman from New York [Mr. JACOBSTEIN], which the Clerk will report.

The Clerk read as follows:

Page 39, line 24, insert "not exceeding $500 for each person, including husband or wife, dependent upon and receiving his chief support from the taxpayer, if such dependent person is under 21 years of age or is incapable of self-support because mentally or physically defective and resides in taxpayer's household, when the taxpayer proves that he has paid cash, not exceeding $500, for medical, hospital, nurse, or funeral expenses."

Mr. MCSWAIN. Mr. Chairman and gentlemen of the committee, I am entirely in sympathy with the sentiment expressed in the amendment of the gentleman from New York [Mr. JACOBSTEIN]. But I apprehend that there is some difficulty in the minds of all of you who sympathize with the thought that the human instrumentality concerned in producing revenue, whereby taxes may be paid, must itself be first of all kept in order and that the difficulty in your minds is that it is wide open; that there is no limit as to the amount that may be deducted nor as to the persons to whom the money shall be paid or whether or not it shall be paid in cash.

My substitute proposes to follow almost identically the language on page 47 of the bill with regard to the person for whose benefit the expense is incurred, to wit: Where there is any person dependent upon a taxpayer, whether under 21 years of age or not, residing in that taxpayer's household and that person is sick or disabled and has to go to a hospital to be operated on or has to have medical attention, or if that person dies, that the expenses of the doctor, the hospital, or the undertaker shall be deducted from that year's earnings in an amount not exceeding $500.

We have put under the head of exemptions, on page 47 of the bill, the arbitrary sum of $400 for each child, a member of the family, under 18 years of age. We all know that $400 will not clothe and feed a child for 12 months, but we fix that as a fair average. While $500 may not take care of all the hospital, nurse, medical, surgical, and undertaking expenses that may happen in the case of any one child in a year, yet it is a fair average and it is a fair deduction, and it is that much deduction in addition to what is now allowed by law. It seems to me it is so obviously a necessary and reasonable deduction from the earnings of the year that there ought to be, with these limitations and hedgings put about it, no reasonable and fair ground for opposition.

We allow deductions for bad debts. We credit a man when we think he will pay us, but he fails to pay and we deduct it. Yet no man, by the exercise of any judgment, can ward off the misfortune of sickness or death that may come to himself or to the members of his family.

It seems to me it would be the most reasonable, fair, and logical deduction that could be made from the earnings of a man within a period of 12 months. It is designed to take care of emergencies, and the taxpayer must prove he paid out the cash to get the deduction, just as he must prove business expenses, interest, losses, bad debts, depreciation, and religious, charitable, and educational contributions.

Mr. GREEN of Iowa. Mr. Chairman, I appeal to the House to use some little reasoning and judgment on these amendments that come before it and not, as a little while ago, turn this whole matter into a joke.

We have here a great revenue bill affecting a great people. No more serious or no more important matter could possibly come before this House.

The gentlemen who have just spoken are actuated by the best of purposes, no doubt; but if these gentlemen will pardon me, do they not really think that gentlemen who have been studying these subjects for 10 or 12 years—with the advisers they get from the Treasury Department and elsewhere, very great experts, as many of them are—are really just a little better qualified to draw these provisions than they are?

The gentleman from Texas [Mr. GARNER] has already by his amendment enlarged the exemptions to $2,000 for a single person and $3,000 for a married person. No other country in the world gives half as much exemption; in fact, nowhere else do they ever give half that exemption, and the purpose of those exemptions is to take care of just such kinds of cases as are presented by this amendment.

Mr. LARSEN of Georgia. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. LARSEN of Georgia. If I understood the gentleman, the force of his remarks is that the men who have been studying these propositions for 10 or 12 years are not dependent on anyone else in writing provisions for a bill of this character or perfecting provisions. Now, if that is so, why should the gentleman bother to bring the bill before the House if gentlemen in the House are not to have a voice in framing it?

Mr. GREEN of Iowa. I did not yield to the gentleman for a speech. I thought the gentleman wanted some information, and, Mr. Chairman, I decline to yield further.

The CHAIRMAN. The gentleman from Iowa declines to yield further.

Mr. HUDDLESTON. Will the gentleman yield to me?

Mr. GREEN of Iowa. I will yield to the gentleman for a question.

Mr. HUDDLESTON. I want to ask the gentleman a question. How does the gentleman discriminate between the exemption allowed for food and clothing for dependents and an exemption for expenses incident to medical attention for dependents? That is a legitimate question.

Mr. GREEN of Iowa. I do not. I see no distinction.

Mr. HUDDLESTON. Then why should we not have one?

Mr. GREEN of Iowa. We have already allowed $400 for the purpose of caring for this kind of a thing—that is, to cover the food and clothing of dependents and the general exemption for the same purpose. We allow all that without any distinction whatever.

Mr. HUDDLESTON. Will the gentleman yield further?

Mr. GREEN of Iowa. Yes.

Mr. HUDDLESTON. That is allowed whether there be sickness or not, and, therefore, it is not aimed at sickness; it is aimed at the necessary expenses, which are food and clothing, and not for emergency and extraordinary expenses incident to a spell of sickness.

Mr. GREEN of Iowa. I do not know what else it is allowed for if not for such purposes, but I wish the gentleman would permit me to use a little of my own time.

Mr. HUDDLESTON. I thought the gentleman was through.

Mr. GREEN of Iowa. The reason that is done is because it is absolutely impracticable to administer the law in any other kind of way. You can not expect to have the Treasury Department investigate into the family affairs of 10,000,000 families, and I think there is something like that number in this country. That is exactly what the Treasury Department would have to do under the substitute offered by the gentleman from South Carolina [Mr. MCSWAIN] and under the amendment offered by the gentleman from New York [Mr. JACOBSTEIN].

Mr. HAWLEY. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. HAWLEY. In the family deduction which we have allowed did we not consider that, in addition to food and clothing, medical attendance would probably also be taken care of?

Mr. GREEN of Iowa. Certainly; that was the very purpose of it. This amendment simply means that the Treasury Department will have to investigate every solitary case of sickness that occurs over this country. It would throw such a burden on the Treasury Department in the administration of these taxes as to make it absolutely impossible for them to ever get through with the work and ever assess the taxes. Now I yield to my friend from South Carolina [Mr. MCSWAIN].

Mr. MCSWAIN. I will ask the chairman of the Ways and Means Committee if, as a matter of fact, each one of the nine

subdivisions of deductions is not predicated upon the ascertainment of facts such as bad debts. What would be more difficult to satisfy a revenue collector about than that you had lost bad debts? This is only one more. It is only 10, instead of 9.

Mr. GREEN of Iowa. It is 10,000 instead of 9; that is what it is.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. GREEN of Iowa. All time on this debate is exhausted.

Mr. CELLER. Mr. Chairman, I rise in support of the motion.

The CHAIRMAN. The gentleman from New York is recognized for two minutes.

Mr. GREEN of Iowa. Mr. Chairman, I make the point of order that the time is exhausted.

The CHAIRMAN. The time is not exhausted according to the timekeeper.

Mr. GREEN of Iowa. I understood the Chair to say that I had exhausted my time, and I supposed that was all the time.

The CHAIRMAN. The gentleman from South Carolina used three minutes and the gentleman from New York [Mr. CELLER] is recognized for two minutes.

Mr. CELLER. Mr. Chairman and members of the committee, I deem it comes with ill grace from the chairman of the committee which drafted this bill to say we are treating this proposition as a joke. I do not believe in the mind of anyone here it is a joke to say that you should deduct necessary expenses incurred in an emergency, in a case where there is an act of God interfering with the normal health of the individual or family. Surely it is not the man's fault or the woman's fault if he or she becomes ill or the children become ill, and there should be some consideration given with reference to that emergency.

The chairman has said they have given a great deal of time and study to this proposition. Indeed, they have, and the thanks of this House are due them for their patient labors, but, nevertheless, despite that fact, they must take suggestions from the other Members of the House. They are, indeed, not the last word on income tax laws or the laws with reference to the raising of revenue. We certainly have the inherent right to make suggestions and to offer amendments, and we should not be called jokesters because we do it. It has been asked, "What shall come within the definition of physician?" And I will say to my good friends that the word "physician" is all-embracing. If one happens to be a Christian Scientist, a healer would come within the term "physician," and any expenditure made for healing of that sort would be a deduction. New York, for example, recognizes all manner and kind of "physicians" under its law, and allows them to practice, and the term includes osteopaths, healers, chiropractors, and so forth; and I say, with reference to that, that the particular law obtaining in the particular State would govern. We take the duty off of dirks and daggers and bowie knives, and yet we are told to hesitate before we allow a deduction for a doctor's bill. The rich man can pay a doctor's bill without any effort.

Mr. SUMMERS of Washington. Will the gentleman yield for a question?

Mr. CELLER. I yield.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SUMMERS of Washington. Under this proposed amendment would the physician administering the treatment necessarily have to be a licensed practitioner?

Mr. CELLER. That depends upon the law of the State in which the matter arises.

The CHAIRMAN. The question is on the amendment to the amendment offered by the gentleman from South Carolina [Mr. MCSWAIN].

The question was taken; and on a division (demanded by Mr. MCSWAIN) there were—ayes 40, noes 100.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from New York [Mr. JACOBSTEIN].

The question was taken; and on a division (demanded by Mr. JACOBSTEIN) there were—ayes 24, noes 104.

So the amendment was rejected.

The Clerk read as follows:

(c) The amount of the deduction provided for in paragraph (2) of subdivision (a), unless the interest on indebtedness is paid or incurred in carrying on a trade or business, and the amount of the deduction provided for in paragraph (5) of subdivision (a) shall be allowed as deductions only if and to the extent that the sum of such amounts exceeds the amount of interest on obligations or securities the interest upon which is wholly exempt from taxation under this title.

Mr. STEVENSON and Mr. KINDRED rose.

Mr. KINDRED. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. KINDRED: Page 44, line 13, after the title insert a semicolon and the words "all premiums paid on life, sick benefit, and annuity insurance policies the face value of which shall not exceed $10,000 at maturity."

The CHAIRMAN. The gentleman from New York [Mr. KINDRED] is recognized

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that all debate on this paragraph and all amendments thereto close in seven minutes.

Mr. STEVENSON. Mr. Chairman, reserving the right to object, I have an amendment, which is the only one I will offer to this bill, so far as I know, and I want a little time to discuss it.

Mr. GREEN of Iowa. On another point?

Mr. STEVENSON. Yes; on another point entirely different from this.

Mr. GREEN of Iowa. Then I will simply ask that that apply to the amendment of the gentleman from New York.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that all debate on this amendment close in seven minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. KINDRED. Mr. Chairman and gentlemen of the committee. The obvious intent of my amendment is to exempt premiums paid by the great mass of our poor people in this country on life insurance policies of small amount, premiums on sick benefit policies and those paid on annuity policies.

It will be admitted on every hand that money invested in life insurance, in sick benefit funds and in annuity insurance is for the protection of helpless widows, children, and dependents, and therefore for the protection of society at large. It will be admitted, I am sure, also, that money invested in premiums on life insurance of small amounts fosters thrift and prosperity as no other investments do. It will be admitted also that investments in annuity insurance are protection against probable hardships that will come otherwise in old age.

I have purposely limited the amount of the insurance, the premiums on which I would exempt, to a very small amount of insurance, namely, $10,000. Surely $10,000 or less—and most of the insurance policies here referred to are for much less than that sum—is a small amount, in these days of high cost of living and great burdens of taxation, a very insignificant amount, which a man dying might leave to his helpless widow and children for their support and for the education of the children.

Surely, no fair-minded Member of this House will deny that an exemption of this class of investment is the best exemption that could be made in any clause of an income-tax bill, and in order to protect the great masses of people in this country, who are always the backbone and the sinew of our Republic, I ask your favorable consideration, without further debate, of this very reasonable amendment to protect the poor in the small amounts of insurance which they carry. [Applause.]

Mr. GREEN of Iowa. Mr. Chairman, the amendment offered by the gentleman from New York [Mr. KINDRED] is offered in altogether the wrong place. I think the gentleman will acquit me of any intention to mislead him. I did not suggest to the gentleman to offer it at this place.

Mr. KINDRED. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. KINDRED. I yield all honor and respect to the gentleman for technical knowledge in such matters. I consulted him, told him where I was going to offer the amendment, and I heard no objection. I really thought he was going to support my amendment.

Mr. GREEN of Iowa. I do not know how the gentleman got such an idea as that. I want to deal fairly with the gentleman, and if I thought there was any prospect of the amendment carrying I would be willing to submit a request for unanimous consent and let him put it in in the proper place. This paragraph to which he has offered the amendment simply applies to interest; it relates back to another paragraph, and if this amendment was added here it would not mean anything.

Mr. KINDRED. It was intended as a separate clause or a separate paragraph.

Mr. GREEN of Iowa. That is not the way it reads.

Mr. KINDRED. If there is any question about the technical place, I will ask unanimous consent to correct my amendment so it will appear as a new paragraph in line 13.

Mr. GREEN of Iowa. I will say to the gentleman that the amendment offered by him will not be worth anything. These

poor people are all exempt; they do not pay any income tax. The man who does not have an income of $4,000 or $5,000 will pay no income tax.

The CHAIRMAN. Does the gentleman from New York desire to offer a unanimous-consent request?

Mr. KINDRED. No, Mr. Chairman; I will ask for a vote on the amendment. I think the amendment is well understood.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. KINDRED].

The question was taken, and the amendment was rejected.

Mr. STEVENSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEVENSON: Page 44, at the end of line 13, strike out the period and insert a semicolon and add: "*Provided*, That this shall not apply to interest received from farm-loan bonds."

Mr. STEVENSON. Mr. Chairman, I want to state this quickly and succinctly. The proposition here is that a man who makes an income-tax return when he gets the gross income has a right to deduct from the gross income interest paid out in carrying on his business. This exception provides that if a part of the income shall be received from tax-exempt securities he must take that from the interest paid out and can only deduct the balance.

Take a man with a gross income of $20,000, of which $3,000 comes from farm-loan bonds or any other tax-exempt securities. He has paid out $5,000 interest, and if this did not apply he would have to pay a tax on $15,000, but before he can deduct the $5,000 he must take from it the $3,000 got from the tax-exempt securities, and therefore can only deduct $2,000 and is taxed on $18,000. In other words, he is taxed on the income he had from tax-exempt securities absolutely. Why do I limit my provision to farm-loan bonds?

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield?

Mr. STEVENSON. In a moment. I will tell you why I limit it to that. It is because it will be deducted as to State and municipal securities, regardless of this law, because they are protected by the Constitution; but the exemption of interest on farm-loan bonds is merely a statutory exemption, and this being a statute of the same body, but of later date, it will supersede it and we will get the income received from farm-loan bonds taxed by making two moves instead of one and still it will stand as to them. In so far as all of the other tax-exempt securities are concerned, they will escape, unless, perhaps, it may be United States bonds.

There is another thing about it. Liberty bonds are not entirely tax exempt. There is a surtax on the income from Liberty bonds, and consequently you do not have to deduct from the interest you pay, and the Liberty bonds will be preferred over these under this section, which is shrewdly done apparently for that purpose.

If the gentleman will look at the section he will see that that is correct. I think it is poor policy to provide in the first part of this bill that securities issued under the provisions of the farm loan act or any provisions of such act as amended shall not be taxable, and then over here make them pay a tax, if the owner happens to have paid out interest.

Mr. CHINDBLOM. What is there to prevent a man from borrowing $20,000 and buying farm-loan bonds with that money and then taking a deduction for the interest paid upon the money with which to buy the tax-exempt securities?

Mr. STEVENSON. If there is nothing in here to prevent that, that is the fault of the committee, but it would be a fool financier who would pay 6 per cent for money to buy 4½ per cent bonds merely to escape a small tax.

Mr. MILLS. It is in there.

Mr. STEVENSON. I submit that it is not.

Mr. CHINDBLOM. It is in here now.

Mr. STEVENSON. To prevent his doing that?

Mr. CHINDBLOM. Yes.

Mr. STEVENSON. All right; if it is provided for, what are you kicking about?

Mr. CHINDBLOM. The gentleman's provision would take it out.

Mr. STEVENSON. No; it is not provided for in this particular paragraph.

Mr. CHINDBLOM. Yes; in that paragraph.

Mr. STEVENSON. I think the gentleman is mistaken. He will not find it in this paragraph or the paragraph I seek to amend, on page 44. There is no such provision. This is the whole proposition. You have in here a provision that a man can deduct the interest he has paid, and then you say but having paid out $5,000 interest, and he has held the bonds and collected $3,000 interest, and those bonds are not taxable—and farm-loan bonds are all it will apply to—then he has to deduct that $3,000 from the $5,000 interest that he has paid out, and, therefore, you have taxed the $3,000 indirectly as completely as if you had provided here that he shall be taxed upon the interest of his farm-loan bonds. There is no provision that will prevent it, and the language as written will do that thing.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that all debate upon this amendment close in 15 minutes.

The CHAIRMAN. Is there objection?

Mr. BLANTON. Mr. Chairman, if the gentleman expects to keep us here until 5.30 o'clock, why does he not close the debate now and save 15 minutes?

Mr. GREEN of Iowa. Does the gentleman want to have just one side of the matter presented?

Mr. BLANTON. We have heard it and we all understand it.

Mr. GREEN of Iowa. Oh, no; you do not.

Mr. BLANTON. I am going to vote with the gentleman from Iowa. If he makes a speech, he may make me change my mind.

The CHAIRMAN. Is there objection?

Mr. BLANTON. Mr. Chairman, I object. I think we ought to get along with the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina.

The amendment was rejected.

The Clerk read as follows:

SEC. 217. (a) In the case of a nonresident alien individual or of a citizen entitled to the benefits of section 262 the following items of gross income shall be treated as income from sources within the United States:

(1) Interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including (A) interest on deposits with persons carrying on the banking business paid to persons not engaged in business within the United States and not having an office or place of business therein, or (B) interest received from a resident alien individual, a resident foreign corporation, or a domestic corporation, when it is shown to the satisfaction of the commisioner that less than 20 per cent of the gross income of such resident payor or domestic corporation has been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such payor, or for such part of such period immediately preceding the close of such taxable year as may be applicable;

(2) The amount received as dividends (A) from a domestic corporation other than a corporation entitled to the benefits of section 262, and other than a corporation less than 20 per cent of whose gross income is shown to the satisfaction of the commisioner to have been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such corporation, or for such part of such period immediately preceding the close of such taxable year as may be applicable, or (B) from a foreign corporation unless less than 50 per cent of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of this section;

(3) Compensation for labor or personal services performed in the United States;

(4) Rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using in the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property; and

(5) Gains, profits, and income from the sale of real property located in the United States.

Mr. HAWLEY. Mr. Chairman, I offer the following committee amendment, which I send to the desk.

The Clerk read as follows:

Page 48, line 16, after the word "payor," insert "preceding the payment of such interest."

Page 48, lines 16 and 17, strike out the words "immediately preceding the close of such taxable year."

Mr. HAWLEY. Mr. Chairman, this amendment is necessary to make the language conform to other parts of the bill. It is a correction of verbiage.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HAWLEY. I offer the following committee amendment, which I send to the desk.

The Clerk read as follows:

Page 48, line 25, strike out the comma, and on page 49 strike out line 1 and all of line 2 through the word "applicable" and insert in lieu thereof the following: "preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence)."

Mr. HAWLEY. The explanation is that it is to correct verbiage and make the language conform to other parts of the bill.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The Clerk read as follows:

(g) (1) Except as provided in paragraph (2) a nonresident alien individual or a citizen entitled to the benefits of section 262 shall receive the benefit of the deductions and credits allowed in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the commissioner may deem necessary for the calculation of such deductions and credits.

(2) The benefit of the credits allowed in subdivisions (d) and (e) of section 216, and of the reduced rate of tax provided for in paragraph (1) of subdivision (b) of section 210, may, in the discretion of the commissioner and under regulations prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

Mr. HAWLEY. Mr. Chairman, I offer an amendment on page 53, in line 8, to take care of the amendment adopted by the House on Tuesday. In line 8, strike out the words "paragraph (1) of subdivision (b)" and substitute in lieu thereof "subdivision (c)."

The CHAIRMAN. The gentleman from Oregon offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HAWLEY: Page 53, line 8, strike out the words "paragraph (1) of subdivision (b)" and insert in lieu thereof "subdivision (c)."

Mr. HAWLEY. This merely corrects the text.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INDIVIDUAL RETURNS.

SEC. 223. (a) The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title—

(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of $2,000 or over, if married and living with husband or wife; and

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income.

Mr. HAWLEY. Mr. Chairman, on page 66, in line 7, I move to strike out "$1,000" and insert "$2,000," and in line 10, to strike out "$2,000" and insert "$3,000."

The CHAIRMAN. The gentleman from Oregon offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HAWLEY: Page 66, line 7, strike out "$1,000" and insert in lieu thereof "$2,000." Page 66, line 10, strike out "$2,000" and insert in lieu thereof "$3,000."

Mr. HAWLEY. Mr. Chairman, this is to conform to the action already taken by the committee.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

(b) If a husband and wife living together have an aggregate net income for the taxable year of $2,000 or over, or an aggregate gross income for such year of $5,000 or over—

(1) Each shall make such return, or

(2) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

Mr. HAWLEY. Mr. Chairman, on page 66, line 16, I move to strike out the figures "$2,000" and insert "$3,000."

The CHAIRMAN. The gentleman from Oregon offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HAWLEY: Page 66, line 16, strike out "$2,000" and insert in lieu thereof "$3,000."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FIDUCIARY RETURNS.

SEC. 225. (a) Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this title—

(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of $2,000 or over, if married and living with husband or wife;

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income;

(4) Every estate or trust the net income of which for the taxable year is $1,000 or over;

(5) Every estate or trust the gross income of which for the taxable year is $5,000 or over, regardless of the amount of the net income; and

(6) Every estate or trust of which any beneficiary is a nonresident alien.

Mr. HAWLEY. Mr. Chairman, I move, on page 67, line 19, to strike out "$1,000" and insert "$2,000," and in line 22 on the same page strike out "$2,000" and insert "$3,000;" and on page 68, line 2, strike out "$1,000" and insert "$2,000."

The CHAIRMAN. The gentleman from Oregon offers amendments, which the Clerk will report.

The Clerk read as follows:

Amendments offered by Mr. HAWLEY: Page 67, line 19, to strike out "$1,000" and insert "$2,000," and on page 67, line 22, strike out "$2,000" and insert "$3,000," and on page 68, line 2, strike out "$1,000" and insert "$2,000."

Mr. HAWLEY. These amendments are made necessary by the action taken previously.

The CHAIRMAN. The question is on agreeing to the amendments.

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

Mr. BLANTON. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. GREEN of Iowa. Oh, I hope the gentleman will not do that. There is no dispute on these matters. I hope the gentleman will let us go on.

Mr. BLANTON. What is the gentleman's program about running to-night?

Mr. GREEN of Iowa. I will stop as soon as there is any serious dispute.

Mr. BLANTON. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONDITIONAL AND OTHER EXEMPTIONS OF CORPORATIONS.

SEC. 231. The following organizations shall be exempt from taxation under this title:

(1) Labor, agricultural, or horticultural organizations;

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations (a) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and (b) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members, and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit, and any corporation chartered solely for burial purposes as a cemetery corpora-

tion and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(7) Business leagues, chambers of commerce, or boards of trade not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees the membership of which is limited to the employees of a designated person in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, and recreational purposes, whether or not for the benefit of the members and their families;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(10) Farmers' or other mutual fire-insurance companies, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations, or mutual hail or cyclone companies, but only if the income consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting expenses;

(11) Farmers', fruit growers', or like associations organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them; or organized and operated as purchasing agents for the purpose of purchasing supplies and equipment for the use of members and turning over such supplies and equipment to such members at actual cost, plus necessary expenses;

(12) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; and

(13) Federal land banks, national farm-loan associations, and Federal intermediate-credit banks, as provided in the Federal farm loan act, as amended.

Mr. DICKINSON of Iowa. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DICKINSON of Iowa: On page 73, line 21, strike out section 10 and insert in lieu thereof the following: "(10) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies, mutual or cooperative ditch irrigation companies, mutual telephone companies, or like organizations; but only if the principal sources of income consist of amounts collected from members for the sole purpose of meeting losses and expenses."

Mr. GREEN of Iowa. Mr. Chairman, how would the last line read?

The Clerk read as follows:

But only if the principal source of income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

Mr. GARNER of Texas. Let me ask the gentleman from Iowa a question to facilitate business. I understand this is agreed to by the committee on both sides, and the experts have drawn this amendment.

Mr. GREEN of Iowa. The committee has not agreed to it, but personally I think the amendment is all right.

Mr. MILLS. I will say to the gentleman from Texas that this is not the amendment which the experts have approved. The experts approved of an amendment which read "substantially all of the income," while the gentleman from Iowa [Mr. DICKINSON] has changed the language to read "the principal sources of income."

Mr. GREEN of Iowa. If the gentleman from New York will permit, when it was said that the experts agreed to the amendment, it was merely meant that they had drawn the amendment in the form it was desired by those who are presenting it. Of course, if the amendment is offered in the form of "substantially" it might as well not be offered at all.

Mr. DICKINSON of Iowa. If there is any objection to it, I want to make a statement.

Mr. MILLS. I will have some objections to it in that form.

Mr. DICKINSON of Iowa. Mr. Chairman, the principal part of this amendment to which objection is made is the question whether or not the principal sources of income shall be a matter of assessment against the members of mutual or cooperative insurance companies. Now, every once in a while there are some of these companies which have a few thousand dollars which they want to put on time deposit, and they will put it in a bank for a short time on time deposit. If you do not provide that the principal sources of income shall consist of amounts collected from members, you bar them from having those little incidental revenues which they make out of these small matters. The total tax paid by all these companies will probably amount to about $50,000, according to the statement of the Treasury Department.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. NEWTON of Minnesota. Just what term does the gentleman use? The principal sources or the substantial sources?

Mr. DICKINSON of Iowa. The principal sources.

Mr. CHINDBLOM. Mr. Chairman, may we hear the language of the amendment again?

The CHAIRMAN. Without objection, the amendment will be again reported.

The Clerk again read the amendment.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. CHINDBLOM. The words "if the principal sources of income consist of amounts collected from members for the sole purpose of meeting losses and expenses" would include, would they not, a company or an association where the members paid assessments in very much the ordinary way payments are made to insurance companies, and those assessments would be amounts collected?

Mr. GREEN of Iowa. This is intended to apply to assessment companies?

Mr. DICKINSON of Iowa. Only; and that is all that it is intended to apply to.

Mr. GARNER of Texas. Will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. GARNER of Texas. The gentleman from Iowa, as I understand, wants to relieve these farm organizations and I am in perfect sympathy with him, but if the gentleman will use the word "substantial," then the Treasury Department will have to construe that language. If you use the word "principal" they can take 51 per cent, and if you use the word "substantial" it will probably mean 90 per cent, because I do not imagine they would have more than 10 per cent that they would want to use otherwise than for the purpose of meeting losses and expenses. It looks to me as though the gentleman should use the word "substantial" and then there will be no objection from any source that I know of.

Mr. GREEN of Iowa. If the gentleman from Iowa will permit, I do not think we ought to use the word "substantial." If you use that word you put the Treasury Department in a difficult position and, moreover, you will have the same old trouble that the Treasury Department has been having.

Mr. GARNER of Texas. If the word "principal" is used they will have to construe that word——

Mr. GREEN of Iowa. And they will construe it at 51 per cent.

Mr. GARNER of Texas. But if the word "substantial" is used it will be 90 per cent. I do not want to open up any place in this bill where you can drive a four-horse wagon through it and all insurance companies get away from paying taxes. In the present law the word "solely" is used, while now it is proposed to use the word "principal." As I have said, if the gentleman will use the word "substantial," I think there will be no objection from any source.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. CHINDBLOM. Mr. Chairman, I ask unanimous consent that the gentleman from Iowa have five additional minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the gentleman from Iowa [Mr. DICKINSON] have five additional minutes. Is there objection?

There was no objection.

Mr. CHINDBLOM. I will say to the gentleman from Iowa that as I look upon this amendment it appears to me as though an old-line company could pretty nearly drive in.

Mr. DICKINSON of Iowa. According to all of the interpretations of this amendment that can not be done.

Mr. CHINDBLOM. Let me call attention to the language used. In the first place, the word "mutual" does not mean anything particularly, because some of the old-line companies are mutual. Secondly, you say, "but only if the principal sources of income consist of amounts collected from members." Ordinary premiums are amounts collected.

Mr. DICKINSON of Iowa. No. The Northwestern Mutual Life Insurance Co. does not collect amounts for the purpose of meeting losses and expenses; it collects a regular, standard rate, and everybody knows what they are going to pay. The small mutual companies, which make assessments for the purpose of meeting losses, make the assessments on their members according to the amount of the losses they sustain.

Mr. CHINDBLOM. I know what you are trying to reach, but I am wondering whether your language is not broad enough to cover even the old-line companies.

Mr. DICKINSON of Iowa. This has been gone over by all of these companies and they have an organization and they have been here and have approved of this form. They say this is the form that the Treasury will let them out on. Now, you gentlemen are all willing to let them out and you are not willing to let any other companies out because they have an entirely different method of doing business.

Mr. CHINDBLOM. I am perfectly willing to let them out, but I do not want to do more than that.

Mr. GARNER of Texas. That is the main thing—not to let anybody else out when you let them out. It seems to me this might open the door for others to be let out.

Mr. GREEN of Iowa. I do not think there is any real objection to substituting for the word "amounts" the words "assessments, dues, and fees."

Mr. CHINDBLOM. That would improve it.

Mr. GREEN of Iowa. That would make it, beyond all question, so it could not apply to the others.

Mr. DICKINSON of Iowa. I would rather not make that substitution because I know they have some objection to it.

Mr. GREEN of Iowa. Mr. Chairman, I did not think we were going to get into any conflict over this matter and inasmuch as we have, I move the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GRAHAM of Illinois, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 6715) to reduce and equalize taxation, to provide revenue, and for other purposes, and had come to no resolution thereon.

MEMORIAL SERVICES FOR THE LATE PRESIDENT HARDING.

Mr. LONGWORTH. Mr. Speaker, I ask unanimous consent, on behalf of the gentleman from Ohio [Mr. BURTON], that there may be printed in the RECORD the program of arrangements for the memorial services for the late President Harding.

The SPEAKER. The gentleman from Ohio asks unanimous consent that there may be printed in the RECORD the program of the memorial services for the late President Harding. Is there objection? [After a pause.] The Chair hears none.

[For program, see Senate proceedings of to-day, page 2808.]

HOUR OF MEETING TO-MORROW—ORDER OF BUSINESS.

Mr. GREEN of Iowa. Mr. Speaker, let me ask the gentleman from Texas [Mr. GARNER] whether there would be any objection to meeting at 11 o'clock to-morrow morning.

Mr. GARNER of Texas. There seems to be some opposition to it over here. Let me ask the gentleman from Ohio and the gentleman from Iowa now, if I may, about another matter. Of course, every Member of this House wants to be here when this bill is finally voted on in the House. What is the prospect of a vote in the House? I was talking to one or two Republicans this afternoon, and they suggested that under no conditions could we have a vote earlier than next week, upon the theory that many gentlemen had gone away with the understanding we would not pass this bill prior to Monday or Tuesday. What is the idea of the majority leader and the chairman of the Ways and Means Committee?

Mr. GREEN of Iowa. I think we can certainly finish the reading of the bill this week, but it might be possible that we would not be able to get to a vote until next Monday.

Mr. GARNER of Texas. We have appropriation bills that could be considered. Suppose we have an agreement then that we will not take this bill up in the House for final passage prior to Tuesday of next week?

Mr. GREEN of Iowa. I would not want to agree to that if we could just as well dispose of it Monday.

Mr. GARNER of Texas. Very well; we will say Monday, then.

Mr. GREEN of Iowa. Will the gentleman from Texas give me overnight to think about that?

Mr. GARNER of Texas. Certainly. That is just the point. I simply want to accommodate the Members who are away, as well as those who might want to go away that are here now.

Mr. GREEN of Iowa. Mr. Speaker, for certain reasons, I will ask unanimous consent that when the House adjourns to-day it adjourn to meet to-morrow morning at 11 o'clock.

The SPEAKER. The gentleman from Iowa asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. GREEN of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 50 minutes p. m.) the House adjourned until to-morrow, Thursday, February 21, 1924, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

371. A letter from the Secretary of War, transmitting a draft of proposed legislation, "On and after July 1, 1925, when in the opinion of the Secretary of War the change of station of an officer of the Corps of Engineers is primarily in the interest of river and harbor improvement, the mileage and other allowances to which he may be entitled incident to such change of station may be paid from appropriations for such improvement"; to the Committee on Military Affairs.

372. A letter from the chairman of the Interstate Commerce Commission, transmitting a report for the month of January, 1924, showing the condition of railroad equipment and the related information indicated in the resolution in so far as such information is available; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. WINSLOW: Committee on Interstate and Foreign Commerce. H. R. 7034. A bill to establish in the Bureau of Foreign and Domestic Commerce of the Department of Commerce a foreign commerce service of the United States, and for other purposes; with amendments (Rept. No. 214). Referred to the Committee of the Whole House on the state of the Union.

Mr. WINSLOW: Committee on Interstate and Foreign Commerce. H. R. 6817. A bill to provide for the construction of a vessel for the Coast Guard; without amendment (Rept. No. 215). Referred to the Committee of the Whole House on the state of the Union.

Mr. FAIRFIELD: Committee on Insular Affairs. H. R. 6143. A bill to purchase grounds, erect and repair buildings for customhouses, offices, and warehouses in Porto Rico; without amendment (Rept. No. 216). Referred to the Committee of the Whole House on the state of the Union.

Mr. WURZBACH: Committee on Military Affairs. H. R. 593. A bill authorizing the issuance of service medals to officers and enlisted men of the two brigades of Texas cavalry organized under authority from the War Department under date of December 8, 1917, and making an appropriation therefor; and further authorizing the wearing by such officers and enlisted men on occasions of ceremony of the uniform lawfully prescribed to be worn by them during their service; with amendments (Rept. No. 217). Referred to the Committee of the Whole House on the state of the Union.

Mr. KIESS: Committee on Printing. H. R. 7039. A bill to amend section 72 of chapter 23, printing act, approved January 12, 1895; without amendment (Rept. No. 218). Referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Interstate and Foreign Commerce was discharged from the consideration of the bill (H. R. 4438) to amend section 300 of the war risk insurance act, and the same was referred to the Committee on World War Veterans' Legislation.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NEWTON of Minnesota: A bill (H. R. 7143) granting the consent of Congress to the city of Minneapolis, a municipal corporation, organized under the laws of the State of Minnesota, to construct a bridge across the Mississippi River in the city of Minneapolis, in the State of Minnesota; to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAMS of Michigan: A bill (H. R. 7144) to relinquish to the city of Battle Creek, Mich., all right, title, and interest of the United States in two unsurveyed islands in the Kalamazoo River, within the corporate limits of said city; to the Committee on the Public Lands.

By Mr. ABERNETHY: A bill (H. R. 7145) granting the Fort Macon (N. C.) Military Reservation to the State of North Carolina; to the Committee on Military Affairs.

By Mr. KAHN: A bill (H. R. 7146) to amend section 9 of an act entitled "An act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. BOYLAN: A bill (H. R. 7147) to prohibit the collection of a surcharge for the transportation of persons or baggage in connection with the payment for parlor or sleeping car accommodations; to the Committee on Interstate and Foreign Commerce.

By Mr. COLTON: A bill (H. R. 7148) providing for the location, entry, and patenting of lands within the former Uncompahgre Indian Reservation, in the State of Utah, containing gilsonite or other like substances, and for other purposes; to the Committee on the Public Lands.

By Mr. MORTON D. HULL: A bill (H. R. 7149) to provide for the admission to the mails as second-class matter of periodical publications issued by regularly incorporated religious associations; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 7150) to provide for the admission to the mails as second-class matter of periodical publications issued by regularly incorporated religious associations; to the Committee on the Post Office and Post Roads.

By Mr. KNUTSON: A bill (H. R. 7151) to promote and preserve the navigability of Cass Lake in the State of Minnesota; to the Committee on Agriculture.

Also, a bill (H. R. 7152) to provide for the payment of claims of Chippewa Indians of Minnesota for back annuities; to the Committee on Indian Affairs.

By Mr. WELLER: A bill (H. R. 7153) to amend the Penal Code; to the Committee on the Judiciary.

By Mr. TINKHAM: A bill (H. R. 7154) to reimburse the Commonwealth of Massachusetts for expenses incurred in compliance with the request of the United States marshal, dated December 6, 1917, to the Governor of Massachusetts in furnishing the State military forces for duty on and around Boston Harbor under regulation 13 of the President's proclamation; to the Committee on the Judiciary.

Also, a bill (H. R. 7155) to reimburse the Commonwealth of Massachusetts for expenses incurred in protecting bridges on main railroad lines and under direction of the commanding general Eastern Department, United States Army, and the commandant navy yard, Charlestown, Mass.; to the Committee on Claims.

By Mr. CANNON: A bill (H. R. 7156) providing for the purchase of a site and the erection of a public building at Vandalia, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. PORTER: Joint resolution (H. J. Res. 195) authorizing an appropriation for the participation of the United States in two international conferences for the control of the traffic in habit-forming narcotic drugs; to the Committee on Foreign Affairs.

By Mr. CRAMTON: Resolution (H. Res. 184) to pay salary and funeral expenses of William E. Gardiner, late an employee in the folding room of the House of Representatives; to the Committee on Accounts.

By Mr. JOHNSON of Washington: Resolution (H. Res. 185) to provide for additional copies of hearings on "Restriction of immigration"; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLOOM: A bill (H. R. 7157) for the relief of Clarence F. Birkett; to the Committee on Claims.

By Mr. BOYLAN: A bill (H. R. 7158) for the relief of Charles F. Brown; to the Committee on Claims.

By Mr. ELLIOTT: A bill (H. R. 7159) granting a pension to Margaret A. Pool; to the Committee on Invalid Pensions.

By Mr. FULMER: A bill (H. R. 7160) for the relief of J. S. Corbett; to the Committee on Claims.

By Mr. GLATFELTER: A bill (H. R. 7161) granting an increase of pension to Harriet Gardner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7162) granting an increase of pension to Adacinda Kurtz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7163) granting an increase of pension to Mary J. Fishel; to the Committee on Invalid Pensions.

By Mr. HOCH: A bill (H. R. 7164) granting an increase of pension to Charlotte A. Daily; to the Committee on Invalid Pensions.

By Mr. HUDSPETH: A bill (H. R. 7165) granting a pension to Matilda Guest; to the Committee on Pensions.

Also, a bill (H. R. 7166) granting a pension to J. H. Thompson; to the Committee on Pensions.

By Mr. LINEBERGER: A bill (H. R. 7167) for the relief of George A. Berry; to the Committee on Naval Affairs.

By Mr MAGEE of New York: A bill (H. R. 7168) granting a pension to Louise Martz; to the Committee on Invalid Pensions.

By Mr. MINAHAN: A bill (H. R. 7169) granting a pension to James Walsh; to the Committee on Pensions.

By Mr. PURNELL: A bill (H. R. 7170) granting a pension to Clarie Herley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7171) granting a pension to Irvin E. Browning; to the Committee on Invalid Pensions.

By Mr. ROBINSON of Iowa: A bill (H. R. 7172) granting a pension to Joseph J. Nedd; to the Committee on Pensions.

By Mr. SEARS of Florida: A bill (H. R. 7173) for the relief of J. N. Lummus and C. L. Huddleston; to the Committee on Claims.

By Mr. SNELL: A bill (H. R. 7174) granting an increase of pension to Lucy A. Cooley; to the Committee on Invalid Pensions.

By Mr. TREADWAY: A bill (H. R. 7175) granting a pension to Rosa C. Allen; to the Committee on Invalid Pensions.

By Mr. WILSON of Mississippi: A bill (H. R. 7176) for the relief of Charles N. Robinson; to the Committee on Claims.

By Mr. WINGO: A bill (H. R. 7177) granting a pension to Mary J. Walston; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1217. By the SPEAKER (by request): Petition of National Woman's Party, favoring the equal rights amendment to the Constitution; to the Committee on the Judiciary.

1218. Also (by request), petition of Bay Ridge Council, A. A. R. I. R., approving the Robinson resolution and urging that every step be taken to detect anyone who may have participated in the big oil swindle; to the Committee on the Public Lands.

1219. Also (by request), petition of Waverly Council, No. 138, Junior Order United American Mechanics (Inc.), urging the enactment into law of the Johnson immigration bill; to the Committee on Immigration and Naturalization.

1220. Also (by request), petition of the Pennsylvania State Camp, Patriotic Order Sons of America, favoring the 3 per cent immigration restriction quota bill; to the Committee on Immigration and Naturalization.

1221. Also (by request), petition of 38 residents of Long Island, N. Y., favoring an increase of compensation being granted to postal employees; to the Committee on the Post Office and Post Roads.

1222. By Mr. ALDRICH: Petition of Loggia Riunite del North End, No. 908, Order Sons of Italy, Providence, R. I., protesting against the passage of the Johnson immigration bill; to the Committee on Immigration and Naturalization.

1223. By Mr. BARBOUR: Petition of the Dos Palos (Calif.) National Farm Loan Association, relative to certain changes in the Federal Farm Loan Board; to the Committee on Banking and Currency.

1224. Also, petition of the Memorial Baptist Church, of Fresno, Calif., urging the passage of the Kelly bill (H. R. 4123) in the interest of postal employees; to the Committee on the Post Office and Post Roads.

1225. By Mr. BURTNESS: Petition of residents of Mayville, N. Dak., in favor of establishing free shooting grounds and game refuges; to the Committee on Agriculture.

1226. By Mr. CULLEN: Petition of New York State Teachers' Association for Social Studies, favoring an appropriation for the preservation of the castle at Fort Niagara; to the Committee on Appropriations.

1227. By Mr. FULLER: Petition of G. D. Brush and 32 other citizens of Kingston and De Kalb County, Ill., favoring repeal or reduction of the so-called nuisance taxes, and especially of the tax on industrial alcohol; to the Committee on Ways and Means.

1228. By Mr. GALLIVAN: Petition of M. Matuson, Roxbury, Mass., recommending early and favorable action on the Kelly-Stephens bill, which requires that all package merchandise or patent medicines shall be sold at not less than the stated price on the package; to the Committee on Interstate and Foreign Commerce.

1229. Also, petition of Washington Central Labor Union, Washington, D. C., recommending early and favorable consideration of the Fitzgerald-Jones workmen's accident compensation bill; to the Committee on the District of Columbia.

1230. Also, petition of New Century Club, Boston, Mass., protesting against Johnson immigration bill; to the Committee on Immigration and Naturalization.

1231. By Mr. HUDSON: Petition of the Detroit Conference of the Methodist Episcopal Church, opposing the weakening of the Volstead Act by any nullifying scheme of so-called light wines and beer; to the Committee on the Judiciary.

1232. By Mr. KING: Petition of Alfred Curtis Cady, of Kewanee, Ill., asking to have public debt paid rather than more money loaned to foreign countries; to the Committee on Ways and Means.

1233. Also, petition of the auxiliary of Shearer Post, No. 350, of Geneseo, Ill., American Legion, declaring themselves unequivocally in favor of the adjusted compensation bill; to the Committee on Ways and Means.

1234. By Mr. LEAVITT: Petition of the Glendive (Mont.) Chamber of Commerce, urging that the Sixty-eighth Congress pass no legislation touching the present railroad situation, and especially disapproving of any attempt to modify any existing provisions of the transportation act of 1920, which it is felt has not been in effect a sufficient length of time to give it a fair trial; to the Committee on Interstate and Foreign Commerce.

1235. Also, petition of I. M. Hobensack, of Lewistown, Mont., outlining the problems of the wheat farmer in Montana and other States of the Northwest; to the Committee on Agriculture.

1236. By Mr. O'CONNELL of Rhode Island: Petition of members of the Loggia Riunite del North End, No. 908, Order Sons of Italy, Providence, R. I., opposing the Johnson immigration bill; to the Committee on Immigration and Naturalization.

1237. By Mr. ROUSE: Petition of citizens of Covington, Ky., requiring that all strictly military supplies be manufactured in the Government-owned navy yards and arsenals; to the Committee on Naval Affairs.

1238. By Mr. STRONG of Pennsylvania: Petition of citizens of Jefferson County, Pa., urging the removal or reduction of nuisance and war taxes; to the Committee on Ways and Means.

SENATE.

THURSDAY, *February 21, 1924.*

(Legislative day of Saturday, February 16, 1924.)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had passed the bill (S. 2189) to authorize the building of a bridge across the Peedee River in North Carolina, between Anson and Richmond Counties, near the town of Pee Dee, with amendments, in which it requested the concurrence of the Senate.

INTERIOR DEPARTMENT APPROPRIATIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 5078) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1925, and for other purposes.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Adams	Capper	Edwards	Harris
Ashurst	Caraway	Ernst	Harrison
Ball	Colt	Ferris	Heflin
Bayard	Copeland	Fess	Howell
Borah	Couzens	Fletcher	Johnson, Minn.
Brandegee	Cummins	Frazier	Jones, N. Mex.
Brookhart	Curtis	George	Jones, Wash.
Broussard	Dale	Gerry	Kendrick
Bruce	Dial	Glass	King
Bursum	Dill	Gooding	Ladd
Cameron	Edge	Hale	La Follette
Lenroot	Norris	Sheppard	Swanson
Lodge	Oddie	Shipstead	Trammell
McKinley	Overman	Shortridge	Wadsworth
McLean	Pepper	Simmons	Walsh, Mass.
McNary	Phipps	Smith	Warren
Mayfield	Pittman	Smoot	Weller
Moses	Ransdell	Spencer	Wheeler
Neely	Reed, Pa.	Stanley	Willis
Norbeck	Robinson	Stephens	

The PRESIDENT pro tempore. Seventy-nine Senators have answered to their names. There is a quorum present.

HOWARD UNIVERSITY.

Mr. CURTIS. Mr. President, unless the chairman of the subcommittee in charge of the bill desires to submit some remarks, I would like to occupy about two minutes on the question of the rule.

Mr. SMOOT. Mr. President, I understand that the Presiding Officer does not particularly care to rule upon the point of order made by the Senator from North Carolina [Mr. OVERMAN], but intends to submit it to the Senate for the Senate to vote upon it.

I recognize that there is a grave doubt about the rule. In fact, I might as well say now that I think the rule ought to be amended so that there will be no question about what it means; but that can not be done at this time.

Therefore, if there is no objection on the part of the Senator from North Carolina, I will ask that no ruling be made at this time, and that the bill go back to the committee with the understanding that I shall immediately report the bill back with that item omitted. Then, when we reach the consideration of the bill, after the committee amendments are disposed of, some member of the committee will report that amendment as coming from the committee, and we can get a direct vote upon it and thus not have a ruling or a vote of the Senate as to what the rule means.

Mr. ROBINSON. The point of order could be raised on the amendment when it is presented by a member of the committee?

Mr. SMOOT. No; I do not think so. I think that is quite clear, as it does not involve the question of new legislation.

Mr. MOSES. Does the Senator mean that when the amendment comes in in that way we will get a direct vote on the merits of the question?

Mr. SMOOT. Yes; on the merits of the question.

Mr. LENROOT. Mr. President, I suggest to the Senator from Utah that he will raise a new parliamentary question if that is done, and that is whether the rule can be avoided by the committee not reporting an amendment when it reports the bill, but afterwards reporting an amendment which it would be prohibited from reporting originally.

Mr. ROBINSON. That is the suggestion I rose to make.

Mr. SMOOT. We will discuss that question when we reach it. I think there is no doubt that under the rule it can be done, and the question might as well be settled at the same time when we are settling the question now before the Senate. I think it is of the utmost importance that the course I have proposed should be followed.

Mr. CURTIS. Mr. President, I did not intend to say anything with reference to the amendment, but I think one remark of the Senator from Utah makes it necessary for me to say a word or two on the rule.

The amendment to the rule in question was reported by me from the Committee on Rules, and I think it is as clear as day. When all appropriation bills were ordered sent to the Committee on Appropriations the rule was adopted with the view of preventing any kind of legislation, new or general, being reported by the committee as an amendment to an appropriation bill. The matter was fully discussed upon the floor, the provision was fully explained, and the reasons for incorporating it in the rule were given to the Senate at the time the amended rule was adopted.

There is no question that the rule means that no legislation, new or general, can be reported as an amendment to an appropriation bill by the Committee on Appropriations. I say this notwithstanding that I am for the amendment to the appropriation bill; but I would have to vote that the amendment is out of order because of the rule, which was so carefully considered by the entire membership of the Committee on Rules, reported back to the Senate, and discussed on the floor very fully, and every Senator who heard the discussion knew just what the rule meant.

Mr. MOSES. Let me ask the Senator a question. He is a great parliamentarian——

Mr. CURTIS. No; I am not a great parliamentarian, but I know what a thing means when I report it.